

9:30 a.m. (EST)
1-866-362-9768
940-609-8246#

OMA Government Affairs Committee

June 6, 2018



AGENDA

Welcome & Introductions

Chris Hess, Director, Public Affairs,
Eaton Corporation; Committee Chair

OMA Counsel's Report

Chris Slagle, Partner, Bricker & Eckler LLP,
OMA General Counsel

Staff Reports

Ryan Augsburger, OMA Staff
Rob Brundrett, OMA Staff
Committee Members

Special Guests

- *Republican Campaign & Elections Perspectives*
- *Democrat Campaign & Elections Perspectives*
- *Ohio Supreme Court Campaigns*

Jon Husted, Ohio Secretary of State & Candidate for Lt. Governor

David Pepper, Chair, Ohio Democratic Party

Judge Craig Baldwin, Court of Appeals and Candidate for Ohio Supreme Court, Endorsed by OMA PAC

Discussion Agenda

- National Association of Manufacturers Field Engagement
- HB 247 Electricity Market Protection Subsidy Legislation
- SB 220 Cybersecurity Data Breach Safe Harbor
- Gun Rights vs. Property Rights
- State Infrastructure Funding Gap
- Workforce
- 2018 Political Landscape / Trends

Todd Shelton, Regional Public Affairs Director

Lunch – provided by OMA

2018 Government Affairs Committee Calendar

Meetings will begin at 9:30 a.m.

Thursday, September 13, NE Ohio
Wednesday, November 07, Phone only
Thursday, November 29

Our thanks to today's meeting sponsor:





Jon Husted

Jon Husted is the 53rd and current Ohio Secretary of State, a position he has held since 2011. In this role, he serves as the state's top election official and has made Ohio a place where it is easy to vote and hard to cheat. Secretary Husted is also responsible for supporting entrepreneurs wishing to do business in the Buckeye State and has overseen a dramatic improvement in customer service, which has led to a record number of new businesses filing with the state each year since he was elected Secretary of State.

In April 2017, Secretary Husted was honored by the Ohio Chapter of Americans for Prosperity with the Taxpayers' Torch Award for his exceptional stewardship of taxpayer dollars and demonstrating conservative leadership in bringing about a more efficient, more effective government. In 2013, the *Washington Post's* blog "The Fix" named him one of their "Top 10 Rising Stars in America." Secretary Husted has also been recognized by the Association of the United States Army for his work to help military voters and their families cast ballots, no matter where they are in the world.

Prior to being elected to statewide office in 2010, Secretary Husted served in the Ohio Senate and the Ohio House of Representatives, including as Speaker of the House for four years.

Raised in Montpelier, Ohio, Secretary Husted learned early in life the importance of faith, family and hard work. These values served as the foundation on which he has built his life.

Secretary Husted earned both his bachelor's and master's degrees from the University of Dayton, where he also was an All-American defensive back on the 1989 Division III National Championship Football Team. Following graduation, he remained in Dayton to serve as Vice President for Business and Economic Development at the Dayton Area Chamber of Commerce.

Above all his responsibilities, Secretary Husted considers his most important role as that of husband to his wife, Tina, and father to his children, Alex, Katie and Kylie.



Judge Craig Baldwin

Judge Craig Baldwin was appointed to the Fifth District Court of Appeals in 2013. He was elected to the position in 2014 and again in 2016. Prior to his time on the appellate court, Judge Baldwin served eight years as a judge in the Licking County Court of Common Pleas, Domestic Relations Division. An attorney since 1992, Judge Baldwin was a partner with the law firm of Jones, Norpell, List, Miller and Howarth. In 2001 he was appointed by the Licking County Commissioners as director of the Licking County Child Support Enforcement Agency until his election as judge in 2004. He was re-elected as judge in 2010.

Judge Baldwin obtained his Juris Doctor from Capital University, Bachelor of Arts degree from Ohio University and pursued graduate degree work in public administration at Ohio University.

Judge Baldwin has served by assignment on the Ohio Supreme Court. Judge Baldwin is a former chair of the Ohio Supreme Court's Commission on the Rules of Superintendence, a member of the Licking County Bar, Stark County Bar and Ohio State Bar Associations. In 2012 he was appointed to the Ohio Supreme Court's Task Force on the Funding of Ohio Courts. Judge Baldwin is also a frequent instructor at the Ohio Judicial College.

Judge Baldwin is a member of the Newark-Heath Rotary and a board member of the Licking Memorial Hospital. He is married and has two children.



DAVID PEPPER

David Pepper was unanimously elected Chairman of the Ohio Democratic Party on December 17, 2014 and began his term on January 1, 2015.

Born and raised in Cincinnati, David is a fifth-generation Cincinnati. David was first elected to public office in 2001 when he served on the Cincinnati City Council, finishing first out of a field of 26 candidates, and was reelected for a second term in 2003, again leading the pack in votes. David came to the Cincinnati City Council as riots, a severe crime wave and a public safety crisis rocked the city.

Amid this turmoil, David's leadership was key in the successful push to improve police-community relations, and he ultimately served as the Chairman of the Law and Public Safety Committee. David played an instrumental role in negotiating a historic collaborative agreement between the police, the community, and City Hall, which healed long simmering tensions while setting the stage for improved safety. David also played leadership roles in economic reforms, new investments, and progressive policy changes that helped spark a decade-long renaissance that continues in Cincinnati to this day.

In 2006, David was elected to the three-member Hamilton County Commission. He served as the Commission President from 2009-2010. During David's tenure at the County, Hamilton County won 19 National Association of County Awards for outstanding management practices, more than all other Ohio counties combined. Independent ratings agencies praised the County's fiscally responsible policies.

David was nominated by Ohio Democrats to run in statewide elections twice. In 2010, David ran for the office of Ohio Auditor campaigning on a platform of increasing efficiency and transparency in government while ending the gerrymandering that has poisoned politics in Columbus and Washington. His platform gained him the endorsements of virtually every major Ohio newspaper. In 2014, David ran an intense campaign to unseat the incumbent Attorney General, calling for greatly improved transparency and integrity in that office.

David earned his B.A. magna cum laude from Yale University, where he was Phi Beta Kappa, and later earned his J.D. from Yale Law School. In 1999, David clerked for the Honorable Nathaniel Jones of the United States Court of Appeals for the Sixth Circuit. Since 2000, David has also worked in the Cincinnati offices of major law firms Squire Sanders and Blank Rome, focusing his practice on commercial and business litigation,

and appellate litigation. David also teaches election and voting rights law as an Adjunct Professor at the University of Cincinnati College of Law.

David is married to Alana (Swartz) Pepper. Alana grew up in Adams County, graduated from the University of Cincinnati, and earned her Master's Degree in Public Administration at Northern Kentucky University. Alana has spent her career helping those faced with mental illness. In May 2015, David and Alana welcomed their first child, Jacob "Jack" Hamilton Pepper, into their family.

Leadership

Husted and Pepper to Highlight Government Affairs Committee

June 1, 2018

Members of the OMA Government Affairs Committee will gather next Wednesday, June 6, to review state public policy issues affecting Ohio manufacturers.

The committee will hear election insights from Republican Lt. Governor candidate Jon Husted and from Ohio Democrat Party Chair David Pepper.

OMA members can participate in person or call in; **register here**. 5/31/2018

A Troubling Window into Army Corps Machinations over Cuyahoga River Dredge

June 1, 2018

From the Cleveland Plain Dealer editorial board this week: "(A) recent Senate subcommittee investigation led by Sen. Rob Portman of Ohio reminds us how recently Corps officials were "gaming" the system with budget manipulations and attempted extortion over keeping Cleveland's economically critical Cuyahoga River navigation channel open for business."

Read the editorial on the unfortunate Corps behavior. 5/31/2018

Business Leaders to House GOP: Elect a Speaker

May 25, 2018

On Wednesday this week, the House canceled its voting sessions for Wednesday and Thursday, a decision that prevents any progress on voting in a new Speaker to replace Cliff Rosenburger, who resigned amid an FBI investigation.

Not only does the action leave the chamber's leadership up in the air, it continues to delay votes on pending bills.

Leaders of Ohio's business communities united early in the week to implore the House GOP caucus to act. A **joint letter** to Rep. Kirk Schuring, Speaker Pro Tempore, from the

executives of the National Federation of Independent Business-Ohio, Ohio Business Roundtable, Ohio Chamber of Commerce, Ohio Farm Bureau Federation, The Ohio Council of Retail Merchants, and The Ohio Manufacturers' Association said:

"... Our interest – and we believe that of House members – is that the General Assembly take up the policy issues that will continue to support and improve Ohio's economy and the welfare of its citizens. Without a Speaker – and with the distracting controversy of electing one – we risk timely progress." 5/23/2018

Groups Sue, Claim Ohio Congressional Districts Unconstitutional

May 25, 2018

This week civil rights groups led by the American Civil Liberties Union **filed a lawsuit** in Cincinnati challenging the constitutionality of Ohio's congressional districts. The lawsuit contends that Ohio's congressional map, which was drawn by Republicans after the 2010 census, locked in a 12-4 Republican seat advantage that infringes on voters' rights to choose their representatives.

The lawsuit comes at a puzzling time as Ohio voters overwhelmingly approved a ballot proposal in the May primary that requires bipartisan cooperation in drawing new congressional districts. 5/24/2018

House Auxiliary Container Legislation has First Hearing

May 25, 2018

House Bill 625, which prohibits a local government from imposing a tax or a fee on auxiliary containers (e.g. plastic bags or foam containers), received its first hearing in the House this week.

The bill's sponsors, Reps. **George Lang** (R-West Chester Twp.) and **Scott Lipps** (R-Franklin), **provided testimony** which named supporters of the bill including the OMA and a multitude of other business organizations. The OMA previously testified in support of the companion bill, Senate Bill 210. 5/24/2018

PUCO International Roadcheck is June 5-7

May 25, 2018

The Public Utilities Commission of Ohio (PUCO) is participating in the 31st annual International Roadcheck, a transportation safety and security event, scheduled June 5–7 throughout the U.S., Mexico and Canada. The 72-hour event highlights the important role roadside enforcement plays in ensuring North America's highways remain safe and secure. This year's focus is on hours-of-service compliance, which was the top reason that drivers were removed from roadways during the previous year's roadcheck.

Read **more about this**. *5/23/2018*

3-D Printing – A Fast Moving Market

May 25, 2018

OMA Connections Partner, Benesch, has produced **this quarterly report** which provides a sector-by-sector update about the fast-moving 3-D printing market.

With PricewaterhouseCoopers, Benesch offers its **4th Annual 3D Printing Conference** on May 31, 2018 in Cleveland. *5/24/2018*

Survey: Manufacturers are Boosting Wages, Hiring and Investment

May 18, 2018

A new survey from the National Association of Manufacturers (NAM) shows that manufacturers are keeping their promise after passage of the historic tax reform legislation by boosting wages, hiring and investment.

The survey shows 72% of manufacturers are increasing employee wages or benefits, 77% are hiring more workers and 86% are investing in new equipment and facilities.

Last month, the NAM's **Manufacturers' Outlook Survey** found optimism among manufacturers registered the second-highest level ever recorded (93.5%) in the 20-year history of the survey.

David Farr, Emerson CEO and NAM board chairman, reviewed the survey results this week during his testimony at a House Ways and Means Committee hearing focused on the impact of tax reform on the U.S. economy, job creators and workers. *5/16/2018*

Still No Speaker

May 18, 2018

The 65-member Ohio House Republican caucus met this week to elect a new Speaker. It failed to do so.

Rep. **Ryan Smith** (R-Bidwell), the current Finance Committee chairman, came up a few votes short of the necessary 50 votes. Two other members, both term limited, had their hats in the ring.

The backdrop of the matter is an ugly contest for the office for next session between Smith and Rep. **Larry Householder** (R-Glenford).

Speaker Pro Temp **Kirk Schuring** (R-Canton) expects the 50-vote threshold to be passed next week after some further negotiations among some members.

The Republicans are trying to replace former Speaker Cliff Rosenberger, who resigned amid reports of an FBI inquiry into his affairs. *5/17/2018*

Senate Approves Cybersecurity Bill

May 18, 2018

This week the Ohio Senate passed **Senate Bill 220** known as the **CyberOhio Safe Harbor** bill. Ohio Attorney General Mike DeWine created CyberOhio to help Ohio businesses and consumers fight back against data security threats. One of CyberOhio's primary objectives is to draft legislation that improves the legal cybersecurity environment in Ohio.

The OMA worked with manufacturing leaders to help make sure that Ohio's number one industry and its data are protected in the legislation. The bill now moves to the Ohio House. *5/17/2018*

Aerospace Business Matchmaker in July

May 18, 2018

The Procurement Technical Assistance Centers (PTAC) of Ohio, Kentucky, Pennsylvania and West Virginia are organizing an Aerospace Business Matchmaker conference.

Held in Athens, Ohio at Ohio University from July 17 -18, 2018 the conference is an opportunity for businesses, contractors and universities to be part of aerospace industry services and contracting.

More than 1,000 attendees are expected.

Learn **more here**. 5/16/2018

Primary Smoke Clears, Sets Up Fall Showdowns

May 11, 2018

This week Ohioans went to the polls to determine which candidates would earn their party's nomination for a number of elected positions throughout Ohio.

At the top of the ticket were the Republican and Democrat primary battles for Ohio governor. After hard campaigning, and unprecedented negative campaigning, convincing victories went to DeWine-Husted and Cordray-Sutton who will engage in a November duel.

Ohioans also voted for Congressman Jim Renacci to take on Senator Sherrod Brown in the U.S. Senate race this fall.

Two Republican U.S. House districts were contested. State Senator Troy Balderson emerged from the primary election to replace Pat Tiberi in the 12th District. And political rookie and former Ohio State and Indianapolis Colts wide receiver Anthony Gonzalez won the right to try to replace Jim Renacci in the 16th District. Numerous Statehouse seats were in play as a proxy war between House Finance Chairman Ryan Smith and former House Speaker Larry Householder was waged across the state. Householder appears to have bested the Smith-backed candidates in the majority of those fights.

Here is **the rundown** as the OMA Public Policy Services team saw it on the morning after. 5/10/2018

NAFTA and Ohio Manufacturing

May 11, 2018

What's at stake for Ohio manufacturing in the NAFTA negotiations? A lot, to say the least.

Nearly a quarter of Ohio's manufacturing production (\$24 billion out of total production of \$106 billion) is exported to Canada and Mexico.

Nearly 4,000 Ohio manufacturing firms export to the two countries, and more than 100,000 jobs are supported by those exports.

Without NAFTA, Ohio's manufactured goods exports to Mexico alone could face a minimum of \$262 million to \$2.1 billion in extra taxes (compared to zero tariffs today).

Yet, NAFTA can be made better for Ohio and American manufacturing. Read how in **this document** produced by the National Association of Manufacturers. 5/10/2018

Manufacturing Day 2018 is October 5

May 11, 2018



Manufacturing DaySM

is a celebration of modern manufacturing meant to inspire the next generation of manufacturers. Manufacturing Day occurs on the first Friday in October — this year Manufacturing Day is Oct. 5, 2018.

Carolyn Holmes Lee, the Executive Director of The Manufacturing Institute, which organizes MFG DAY nationally, said, "As you know, a shortage of skilled workers is one of the biggest problems manufacturers face. MFG Day is our largest annual event to inspire the next generation to pursue rewarding careers in manufacturing.

"October might seem like far away, but teachers and schools are already rapidly planning their schedules for next fall. Quite simply, the sooner we're able to schedule events, the more students—and future manufacturers—will be able to attend each event."

While Manufacturing Day is officially Oct. 5, companies should plan their events on any date that works best for them. No matter the date, events should be **registered on the site** and can be marked as public or invitation-only events.

Registered event hosts have **access to free event planning and execution resources and toolkits** to make planning a Manufacturing Day event easy! 5/8/2018

State Issue 1 – Congressional Redistricting – Explained (video)

May 4, 2018

Ohio Issue 1, the Congressional Redistricting Procedures Amendment, is on the ballot in Ohio as a legislatively referred constitutional amendment on May 8, 2018.

- A “yes” vote supports changing the vote requirements to pass congressional redistricting maps and the standards used in congressional redistricting in Ohio.
- A “no” vote opposes new congressional redistricting procedures and standards, thus allowing the Ohio General Assembly to continue adopting congressional redistricting plans through a simple majority vote.

Here’s a **good video** from the Secretary of State about the implications of Issue 1. *5/3/2018*

OMA Supports Container Legislation May 4, 2018

This week Reps. **George Lang** (R-West Chester Township) and **Scott Lipps** (R-Franklin) introduced **House Bill 625**, which would prohibit a local government from imposing a tax or a fee on auxiliary containers, such as a paper or plastic bag or foam container.

This legislation is a companion to the previously introduced Senate Bill 210. The OMA supports both pieces of legislation.

In **testimony prepared for Senate Bill 210** OMA wrote, “But when local jurisdictions enact restrictions on product content, or on labeling of products, or on taxing of certain products, it makes it very difficult for compliance in today’s global economy. As such the OMA routinely advocates to mitigate locally-imposed restrictions or taxes. In many cases these types of regulations are most appropriately adopted at the federal government level so as to not disadvantage businesses in one state over businesses in another state.” *5/3/2018*

Ohio Ranked 10th Best for Business May 4, 2018

Chief Executive magazine released its **2018 rankings** of the best and worst states for business this week. Ohio ranked 10th best overall

for business, an improvement of one place from 2017.

Texas, Florida, North Carolina, South Carolina and Indiana made up the top five.

California, New York, Illinois, New Jersey and Connecticut were at the bottom. *5/3/2018*

In Memoriam: Dick Brown, The Jones Metal Products Co. April 27, 2018

Richard “Dick” H. Brown, age 80, of Coshocton, passed away on April 23, 2018. Dick retired in 2002 from The Jones Metal Products Company in West Lafayette where he was president and CEO of the company. Dick served on The Ohio Manufacturers’ Association board of directors for 12 years and was named to Governor Taff’s Ohio State Task Force Board.

He contributed civility, charm and humor as well as critical business insights in his many years on the OMA’s all-volunteer board. He was a favorite among staff for his genuine warmth. Rest in peace, Dick. *4/25/2018*

Speaker Vote Set for May 16 April 27, 2018

The House Republican Caucus will be choosing a new House speaker to replace Cliff Rosenburger who stepped down amid controversy. The vote will be held during a Tuesday, May 15 caucus meeting. The full chamber is scheduled to vote on the speaker during its Wednesday, May 16 meeting. *04/26/2018*

Make Ohio Home (video) April 27, 2018

JobsOhio is excited to share its new video highlighting the great state of Ohio, home to a favorable business climate, a skilled and abundant workforce, unparalleled access to customers and suppliers, and a collaborative research and innovation network.

See for yourself **what Ohio has to offer**. *4/24/2018*

Protect Your Infrastructure from Russian Hackers

April 23, 2018

The U.S. and U.K. governments put out an unusual joint Technical Alert regarding state-sponsored Russian hacking targeting network infrastructure devices.

The purpose of the alert is “to inform network device vendors, ISPs, public-sector organizations, private-sector corporations, and small office home office (SOHO) customers about the Russian government campaign, provide information to identify malicious activity, and reduce exposure to this activity.”

Read the alert. *4/17/2018*

Speaker Rosenberger Resigns

April 16, 2018

On Tuesday evening, Ohio Speaker of the House Cliff Rosenberger announced he would step down as Speaker and resign his seat effective May 1. The announcement comes as a surprise amid news and blog reports that the Speaker is being questioned by the FBI and has hired defense counsel.

In his statement, Speaker Rosenberger said “As I have said previously, I am aware of a federal inquiry being conducted regarding things I may have been involved in. First and foremost, I believe that all of my actions as speaker have been both ethical and lawful. However, I understand that the nature of this inquiry has the potential to be very demanding and intensive, and could take months or even years to resolve. Meanwhile, there are many important issues facing our state that deserve careful consideration and review, and Ohioans deserve elected leaders who are able to devote their full and undivided attention to these matters. I believe the institution of the Ohio House of Representatives is far more important than one person.”

The members of the Republican caucus will need to elect a new Speaker to preside over the Chamber. Until they do so, Speaker Pro Tem Kirk Schuring will maintain leadership responsibilities. *4/11/2018*

OMA PAC Announces Endorsements

April 16, 2018

The Ohio Manufacturers' Association Political Action Committee this week announced **legislative candidate endorsements** in eight contested primary House contests.

“We are endorsing some impressive candidates with good knowledge of the importance of protecting and growing Ohio manufacturing,” said OMA President Eric Burkland.

Additional endorsements will be made later in the year. Meanwhile, we wish the best to this OMA slate of endorsed candidates! *4/11/2018*

Autonomous Vehicle Hearings

Continue

April 13, 2018

The House Transportation Committee this week continued its study of autonomous and connected vehicles and related policy considerations. This week the focus was on insurance.

Committee members heard from two national insurance trade associations and from three individual insurers: Nationwide, State Farm and Munich Reinsurance. Not surprisingly the chorus of insurers called for safety policies and clarification of liability issues.

Nationwide detailed the need for insurers to have access to data collected by new systems that will be needed to calculate risk.

The **Property Casualty Insurers Association of America** advised the state to “establish new, distinct financial responsibility requirements for the manufacturers of autonomous driving systems.”

The **National Association of Mutual Insurance Companies** addressed recent safety setbacks associated with autonomous vehicles and discussed the work going on to develop standards for Automated Driving Systems. *4/11/2018*

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association
Report created on June 5, 2018

- HB5** **MICROBUSINESS STATUTORY DEFINITION** (PELANDA D, GAVARONE T) To create a statutory definition of "microbusiness."
Current Status: 3/15/2017 - Referred to Committee Senate Transportation, Commerce and Workforce
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-5>
- HB20** **COMPENSATORY DAMAGES CAP REMOVAL** (GONZALES A, BOGGS K) To remove the cap on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action when the tort action is brought by a victim of rape, felonious assault, aggravated assault, assault, or negligent assault.
Current Status: 2/8/2017 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-20>
- HB23** **ALCOHOLIC ICE CREAM SALE** (PATTERSON J, BOGGS K) To allow A-4 liquor permit holders to manufacture and sell ice cream containing between one-half of one per cent and six per cent of alcohol by volume.
Current Status: 5/17/2017 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-23>
- HB26** **TRANSPORTATION-PUBLIC SAFETY BUDGET** (MCCOLLEY R) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of those programs.
Current Status: 3/31/2017 - **SIGNED BY GOVERNOR**; Some provisions line-item vetoed, eff. 6/30/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-26>
- HB42** **VEHICLE TIRE SAFETY** (SPRAGUE R, DEVITIS A) To prohibit the installation of unsafe used tires on certain motor vehicles.
Current Status: 5/9/2017 - **REPORTED OUT AS AMENDED**, House Economic Development, Commerce and Labor, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-42>
- HB51** **DEPARTMENT REVIEW SCHEDULE** (FABER K) To require standing committees of the General Assembly to establish a schedule for the periodic review and sunset of state departments that are currently in the Governor's cabinet, and to require that Auditor of State performance audits be scheduled to coincide with the periodic review.
Current Status: 5/16/2017 - **REPORTED OUT AS AMENDED**, House State and Local Government, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-51>

- HB53 PUBLIC EMPLOYEES-MEMBER DUES** (BECKER J) To remove any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization, to prohibit public employers from requiring public employees to join or pay dues to any employee organization, to prohibit an employee organization from being required to represent public employees who are not members of the employee organization, and to make an appropriation.
Current Status: 2/14/2017 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-53>
- HB57 DOMESTIC STEEL REQUIREMENTS** (BOCCIERI J, RAMOS D) To require the use of domestic steel in construction, repair, or improvement projects involving certain buildings used by public schools, state institutions of higher education, and specified private colleges.
Current Status: 3/21/2017 - House Economic Development, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-57>
- HB127 BUILDING CODE REQUIREMENTS-WELDING** (PERALES R, DEVER J) To establish in the Ohio Building Code requirements pertaining to structural steel welding and bridge welding.
Current Status: 11/28/2017 - House Economic Development, Commerce and Labor, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-127>
- HB163 PREVAILING WAGE PUBLIC IMPROVEMENT PROJECTS** (ROEGNER K, RIEDEL C) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.
Current Status: 9/19/2017 - House Economic Development, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-163>
- HB206 COMMERCIAL AIRLINE AND AIR FREIGHT COMMISSION** (BARNES, JR. J) To create the Commercial Airline and Air Freight Commission.
Current Status: 9/13/2017 - House Transportation and Public Safety, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-206>
- HB226 FIREWORKS STUDY GROUP AND EXPANSION** (SEITZ B, SWEENEY M) To establish a fireworks study group to review and make recommendations regarding the Fireworks Law, to extend to July 1, 2020, the moratorium on issuing fireworks manufacturer and wholesaler licenses, to eliminate, beginning January 1, 2021, the moratorium on geographic transfer of fireworks manufacturer and wholesaler licenses, and, beginning July 1, 2020, to impose a fee on the retail sale of consumer grade fireworks in this state and to expand the ability of individuals to obtain 1.3G display fireworks and obtain and use 1.4G consumer fireworks.
Current Status: 5/9/2018 - Senate Government Oversight and Reform, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-226>

- HB245** **CONSUMER PROTECTION CALL CENTER ACT** (BOCCIERI J, LEPORE-HAGAN M) To enact the Consumer Protection Call Center Act of 2017 to require the Department of Job and Family Services to compile a list of all employers that relocate a call center to a foreign country and to disqualify employers on that list from state grants, loans, and other benefits.
Current Status: 9/19/2017 - House Economic Development, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-245>
- HB256** **COMMERCIAL SERVICE AIR HUBS** (BUTLER, JR. J, ZELTWANGER P) To create the Major Air Hub Council, to require the Council to construct two commercial service airports, one in Fayette County and one in Portage County, and to create the Southern Ohio Airport Authority and the Northern Ohio Airport Authority to operate the airports.
Current Status: 2/28/2018 - House Transportation and Public Safety, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-256>
- HB262** **INDEPENDENT BUDGET PROCESS** (BUTLER, JR. J, ROMANCHUK M) To provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook.
Current Status: 6/20/2017 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-262>
- HB301** **COURT SETTLEMENT RESTRICTIONS** (BUTLER, JR. J) To require the approval of the General Assembly for a state agency to agree to a consent decree or court-approved settlement agreement that would alter or prohibit the enforcement of a law of this state.
Current Status: 3/14/2018 - House Government Accountability and Oversight, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-301>
- HB323** **GARBAGE COLLECTION FEES** (PATTERSON J) To authorize all municipal corporations that charge a garbage collection fee to certify unpaid amounts to the county auditor, who must enter the fees on the property tax list to be collected in the same manner as real property taxes.
Current Status: 12/5/2017 - **REPORTED OUT**, House State and Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-323>
- HB415** **LOCAL GOV ROAD IMPROVEMENT** (GREENSPAN D, RYAN S) To allocate one-half of any surplus revenue to a new Local Government Road Improvement Fund, from which money will be distributed directly to local governments to fund road improvements.
Current Status: 3/21/2018 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-415>

- HB497** **SEXUAL IMAGE DISSEMINATION** (ROGERS J, MANNING N) To prohibit the nonconsensual dissemination of private sexual images, to require that certain property involved in the offense be criminally forfeited, and to create certain legal rights and employment protections of a victim of the offense.
Current Status: 6/6/2018 - House Community and Family Advancement, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-497>
- HB509** **CRAFT BEER SALES-PRODUCTION** (HAMBLEY S, SWEENEY M) To create the F-11 liquor permit to authorize the sale of beer under specified circumstances at a farmers market and to authorize the Department of Agriculture to promote the use of Ohio-produced agricultural goods grown for inclusion in beer or cider through a promotional program.
Current Status: 2/20/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-509>
- HB519** **COUNCIL ON TRANSPORTATION TECHNOLOGY** (WEST T, KICK D) To create the Ohio Council on Transportation Technology to make recommendations regarding state policies related to autonomous technology.
Current Status: 2/27/2018 - Referred to Committee House Transportation and Public Safety
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-519>
- HB560** **ANIMAL REMAINS-PET FOOD** (LANESE L) To prohibit pet food from containing remains from an animal that was euthanized by the use of any drug injected intravenously or through another nonvascular route or remains from any dog or cat.
Current Status: 3/20/2018 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-560>
- HB576** **MINIMUM WAGE INCREASE** (KELLY B) To increase the state minimum wage.
Current Status: 4/10/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-576>
- HB600** **OHIO GLOBAL INITIATIVE** (BARNES, JR. J) To establish the "Access to Global Market Opportunities for Ohio Manufactured Products Program" to be composed of the "Ohio Global Leadership Initiative" and the "Global Initiative on International Relations" to create new, untapped global markets for Ohio businesses and thereby promote job creation, and to make an appropriation.
Current Status: 5/22/2018 - House Economic Development, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-600>
- HB620** **REGULATION REDUCTION** (ROEGNER K, RIEDEL C) To require agencies to reduce the number of regulatory restrictions.

Current Status: 5/15/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-620>

HB629 **GENERAL ASSEMBLY GIFTS & TRAVEL REIMBURSEMENT** (ANTANI N) To modify the law governing gifts and travel reimbursements to members of the General Assembly and to prohibit the use of campaign contributions for travel outside the United States.

Current Status: 5/15/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-629>

HB631 **AMUSEMENT RIDE SAFETY** (HUGHES J, PATTERSON J) To revise the laws governing amusement ride operation and safety, to designate this act as "Tyler's Law," and to declare an emergency.

Current Status: 5/15/2018 - Referred to Committee House Agriculture and Rural Development

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-631>

HB632 **VEHICLE PRODUCT PROTECTION CONTRACTS** (LANG G) Regarding motor vehicle ancillary product protection contracts and motor vehicle service contracts.

Current Status: 6/6/2018 - House Transportation and Public Safety, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-632>

HB673 **LEAD PAINT ABATEMENT-MANUFACTURERS** (BARNES, JR. J) To require the Director of Health to develop a program in partnership with paint manufacturers and retailers to provide low-cost paint for use in lead abatement and to establish a registry of residential units where lead poisoning has occurred.

Current Status: 5/22/2018 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-673>

HB694 **PERIOD OF LIMITATION-CONTRACT** (LANG G) To shorten the period of limitations for actions upon a contract.

Current Status: 5/22/2018 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-694>

HB699 **AUTOMATED COMMERCIAL VEHICLES** (LEPORE-HAGAN M, HUGHES J) To specify the requirements for operating an automated commercial motor vehicle in the state.

Current Status: 5/29/2018 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-699>

HJR6 **TERM LIMIT AMENDMENTS** (SWEENEY M) To impose term limits prohibiting a person from holding office longer than eight years in the Ohio Senate, eight years in the Ohio House of Representatives, and more than sixteen years in total in the General Assembly.

Current Status: 1/16/2018 - Referred to Committee House Government

Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-6>

- HJR7 PUBLIC SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of public sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember public sector employees in employment-related matters.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-7>
- HJR8 PRIVATE SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of private sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember private sector employees in employment-related matters.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-8>
- HJR9 PUBLIC CONTRACTOR WAGE PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 43 of Article II of the Constitution of the State of Ohio to prohibit a public authority from requiring a contractor on a public improvement to pay the contractor's workers the prevailing rate of wages for work performed on the public improvement.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-9>
- HJR10 GOVERNMENT CONTRACTS-REQUIREMENT PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 2 of Article XV of the Constitution of the State of Ohio to prohibit certain requirements or prohibitions regarding labor agreements in government contracts.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-10>
- HJR11 COLLECTIVE BARGAINING REPRESENTATIVE ELECTIONS** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to subject any public employee collective bargaining representative to an annual election to remain certified as the exclusive representative.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-11>
- HJR12 PAYROLL DEDUCTIONS-LABOR DUES** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to prohibit dues and other

fees payable to an employee organization from being deducted from the payroll check of a public employee and to prohibit those dues and fees from being used for political purposes unless authorized by the public employee.

Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-12>

HR74 **ABOLISH CORPORATE PERSONHOOD** (SMITH K, ANTONIO N) To call on legislators at the state and federal level and other communities and jurisdictions to support an amendment to the United States Constitution that would abolish corporate personhood and the doctrine of money as speech.

Current Status: 2/13/2018 - House Federalism and Interstate Relations, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-74>

HR355 **SUPPORT CLEAN CAR STANDARDS** (LELAND D) To express support for strong Corporate Average Fuel Economy standards and clean car standards that promote job creation, are beneficial in keeping Ohio as an industry leader in manufacturing automobiles and automotive parts, and protect the environment for the future.

Current Status: 2/21/2018 - House Transportation and Public Safety, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-355>

SB6 **OHIO BRIDGE PARTNERSHIP PROGRAM** (HOAGLAND F) To extend the Ohio Bridge Partnership Program through the end of fiscal year 2019 and to require the Director of Transportation to submit a report to the Governor, Senate, and House of Representatives recommending ways to continue to fund the program.

Current Status: 12/13/2017 - Bills for Third Consideration

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-6>

SB30 **VEHICLE RESOLUTIONS BY COUNTIES** (EKLUND J) To authorize counties to adopt resolutions regulating motor vehicle traffic on county and township roads.

Current Status: 2/14/2017 - Senate Local Government, Public Safety and Veterans Affairs, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-30>

SB43 **TOWNSHIP BUILDING CODES** (BACON K) To enable limited home rule townships to adopt building codes regardless of any similar codes adopted by the county in which the township resides.

Current Status: 6/27/2017 - **REPORTED OUT**, Senate Local Government, Public Safety and Veterans Affairs, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-43>

SB51 **LAKE ERIE IMPROVEMENT DISTRICT** (SKINDELL M, EKLUND J) To authorize the creation of a special improvement district to facilitate Lake Erie shoreline improvement.

Current Status: 9/27/2017 - Senate Energy and Natural Resources, (Fourth

Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-51>

- SB68** **UNSAFE USED TIRES PROHIBITION** (LAROSE F, HITE C) To prohibit the installation of unsafe used tires on certain motor vehicles.
Current Status: 6/27/2017 - **REPORTED OUT**, Senate Local Government, Public Safety and Veterans Affairs, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-68>
- SB72** **PREVAILING WAGE LAW** (HUFFMAN M) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.
Current Status: 3/7/2017 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-72>
- SB79** **STATE DEPARTMENTAL REVIEW SCHEDULE** (JORDAN K) To require standing committees of the General Assembly to establish a schedule for the periodic review and sunset of state departments that are currently in the Governor's cabinet, and to require that Auditor of State performance audits be scheduled to coincide with the periodic review.
Current Status: 4/10/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-79>
- SB122** **CONCEALED CARRY-STATEHOUSE** (JORDAN K) To permit concealed handgun licensees to carry concealed handguns in the statehouse and on its grounds.
Current Status: 4/26/2017 - Referred to Committee Senate Judiciary
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-122>
- SB142** **CARRYING CONCEALED FIREARMS** (JORDAN K) To allow a concealed handgun licensee to carry concealed all firearms other than dangerous ordnance or firearms that state or federal law prohibits the person from possessing and to provide that a person 21 years of age or older and not prohibited by federal law from possessing or receiving a firearm does not need a concealed handgun license in order to carry or have a concealed firearm and is subject to the same laws regarding concealed firearm carrying as a concealed handgun licensee.
Current Status: 5/3/2017 - Referred to Committee Senate Judiciary
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-142>
- SB156** **CALL CENTER JOBS PROTECTION** (SCHIAVONI J, YUKO K) To enact the Consumer Protection Call Center Act of 2017 to require the Department of Job and Family Services to compile a list of all employers that relocate a call center to a foreign country and to disqualify employers on that list from state grants, loans, and other benefits.
Current Status: 5/24/2017 - Referred to Committee Senate Government Oversight and Reform
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-156>

- SB165** **BRINE SALE REQUIREMENTS** (DOLAN M, SKINDELL M) To establish conditions and requirements for the sale of brine from certain oil or gas operations as a commodity and to exempt such a commodity from requirements otherwise applicable to brine.
Current Status: 3/21/2018 - **BILL AMENDED**, Senate Energy and Natural Resources, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-165>
- SB174** **WAGE PROTECTIONS-FAIR ACT** (TAVARES C) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.
Current Status: 9/7/2017 - Referred to Committee Senate Transportation, Commerce and Workforce
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-174>
- SB180** **FIREARM RELATED LAWS-CHANGES** (UECKER J, HOTTINGER J) To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises.
Current Status: 4/10/2018 - Senate Judiciary, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-180>
- SB181** **UNPAID MUNICIPAL GARBAGE FEES** (O'BRIEN S, YUKO K) To authorize all municipal corporations that charge a garbage collection fee to certify unpaid amounts to the county auditor, who must enter the fees on the property tax list to be collected in the same manner as real property taxes.
Current Status: 6/6/2018 - Senate Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-181>
- SB205** **BENEFIT CORPORATION FORMATION** (DOLAN M) To allow a corporation to become a benefit corporation.
Current Status: 6/5/2018 - Senate Judiciary, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-205>
- SB210** **AUXILIARY CONTAINER USAGE** (COLEY W, EKLUND J) To authorize a person to use an auxiliary container for any purpose, to prohibit a municipal corporation from imposing a tax or fee on auxiliary containers, and to clarify that the existing antilittering law applies to auxiliary containers.
Current Status: 6/5/2018 - Senate Health, Human Services and Medicaid, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-210>
- SB213** **ECONOMIC DEVELOPMENT FUNDING PLAN** (SCHIAVONI J) To enhance economic and

employment opportunities and improve local infrastructure in Ohio by providing additional assistance to workforce development and employment programs; establishing a revolving loan program for small businesses seeking to expand operations; extending job tax credits to smaller businesses; enabling expanded participation in public sector contracting by smaller companies; enhancing support for child care centers; funding additional local infrastructure and public transit; authorizing tax incentives for hiring military veterans, for donating money to local programs assisting distressed communities, or for improving distressed property; exempting the homes of disabled veterans from property taxation; terminating the income tax deduction and reduced tax rate for business income; and to make an appropriation.

Current Status: 11/15/2017 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-213>

SB220 **SAFE HARBOR-CYBERSECURITY PROGRAMS** (HACKETT R, BACON K) To provide a legal safe harbor to covered entities that implement a specified cybersecurity program.

Current Status: 5/16/2018 - **PASSED BY SENATE**; Vote 24-8

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-220>

SB221 **RULE-MAKING AND REVIEW REFORM** (UECKER J) To reform agency rule-making and legislative review thereof.

Current Status: 5/22/2018 - House Government Accountability and Oversight, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-221>

SB223 **UNSAFE USED TIRES PROHIBITION** (LAROSE F) To prohibit the installation of unsafe used tires on certain motor vehicles.

Current Status: 2/27/2018 - **REPORTED OUT AS AMENDED**, House Government Accountability and Oversight, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-223>

SB251 **NONCONSENSUAL IMAGE DISSEMINATION PROHIBITION** (SCHIAVONI J) To prohibit the nonconsensual dissemination of private sexual images, to require that certain property involved in the offense be criminally forfeited, and to create certain legal rights and employment protections of a victim of the offense.

Current Status: 5/22/2018 - Senate Judiciary, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-251>

SB264 **MEDICAL MARIJUANA CONTROL AUDIT** (COLEY W) To require the Auditor of State to conduct and release a performance audit of the Medical Marijuana Control Program, to prohibit the Department of Commerce from issuing final cultivator, processor, or laboratory testing licenses until performance audit recommendations are implemented, and to declare an emergency.

Current Status: 4/17/2018 - Senate Health, Human Services and Medicaid, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-264>

SB269 **ROAD MAINTENANCE FUNDING** (YUKO K) To make supplemental appropriations in

order to provide political subdivisions with funding for road maintenance repairs.

Current Status: 3/21/2018 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-269>

SB277 **STATE MINIMUM WAGE INCREASE** (THOMAS C, SCHIAVONI J) To increase the state minimum wage.

Current Status: 4/11/2018 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-277>

SB280 **STRICT LIABILITY OFFENSES-PUNITIVE DAMAGES** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is provided with respect to an act resulting in a felony conviction involving purposeful or knowing conduct so that it also applies when the act results in a felony conviction for a strict liability offense.

Current Status: 5/22/2018 - Senate Judiciary, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-280>

SB293 **REDUCTION OF AGENCY REGULATIONS** (PETERSON B, MCCOLLEY R) To require agencies to reduce the number of regulatory restrictions.

Current Status: 6/6/2018 - Senate Transportation, Commerce and Workforce, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-293>

SJR3 **STATE CONGRESSIONAL REDISTRICTING** (LAROSE F) Proposing to amend the versions of Sections 1, 2, 3, 4, 6, 8, and 9 of Article XI that are scheduled to take effect January 1, 2021; to amend, for the purpose of adopting new section numbers as indicated in parentheses, the versions of Sections 1(2), 2(3), 3(5), 4(6), 5(7), 6(8), 7(9), 8(10), 9(11), and 10(12) of Article XI that are scheduled to take effect January 1, 2021; and to enact new Sections 1 and 4 of Article XI of the Constitution of the State of Ohio to revise the redistricting process for congressional districts.

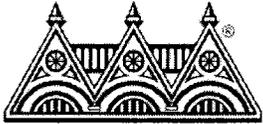
Current Status: 3/7/2017 - Referred to Committee Senate Government Oversight and Reform

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SJR-3>

SR59 **SOO LOCKS FEDERAL UPGRADE** (DOLAN M, LAROSE F) To encourage the President and the Congress of the United States and the United States Office of Management and Budget to support plans to upgrade the Soo Locks at Sault Ste. Marie, Michigan, and encourage the United States Army Corps of Engineers to take expeditious action in preparing an Economic Reevaluation Report.

Current Status: 9/27/2017 - **ADOPTED BY SENATE**; Vote 33-0

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SR-59>



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI | DAYTON
MARIETTA

BRICKER and ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
MAIN: 614.227.2300
FAX: 614.227.2390

www.bricker.com
info@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee
FROM: Bricker and Eckler LLP
DATE: June 6, 2018
RE: June 2018 OMA Government Affairs Committee
Report

I. June 2018 Government Affairs Committee Counsel Report.

Please find below several political, legislative, and judicial efforts our Firm has been monitoring for the OMA.

II. Statewide Ballot Issues Overview. The General Assembly-initiated congressional redistricting constitutional amendment appeared on the May 2018 ballot as Issue 1. Additionally, many different ballot issue committees are currently circulating petitions to gather signatures with the hopes of getting their issue on the November 2018 ballot. Please find an overview of proposed ballot issues below.

Congressional Redistricting Proposal. On May 8, 2018, Ohio voters approved Issue 1, the congressional redistricting constitutional amendment, by nearly 75 percent of the vote. The amendment will take effect on January 1, 2021 and apply to congressional redistricting following the 2020 U.S. Census.

The constitutional amendment establishes a three-tiered process where the General Assembly will get the first attempt at drawing a 10-year map. This map is required to keep 65 counties whole within congressional districts and could only divide up to 18 counties once and up to five counties twice. The proposed map must be approved by a supermajority of both chambers, including 50 percent of the minority party.

If the General Assembly fails to pass a congressional map with bipartisan support, the Ohio Redistricting Commission is able to draw a second draft of a map. The Ohio Redistricting Commission is composed of seven members. If the map cannot get two minority party members' approval, the General Assembly receives the opportunity to draw another draft map. If the Ohio General Assembly fails to get one-third of the minority party to approve the map, it is only good for four years instead of 10 and must adhere to stricter rules for splitting counties.

Ohio Community Rights Amendment. This constitutional amendment would grant a constitutional right to local community self-government for the

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“health, safety and welfare of community members.” This amendment is supported by the Ohio Community Rights Network and the Community Environment Legal Defense Fund. This effort in addition to the Initiative and Referendum Amendment for Counties and Townships outlined below were drafted to address what proponents feel is an increased influence from the Ohio Statehouse on local, community decisions. Attorney General Mike DeWine certified the petition for the Ohio Community Rights Amendment on November 27, 2017, which means that the proposal had the required 1,000 valid signatures from registered Ohio voters and that they presented a “fair and truthful” summary of the proposed amendment.

Initiative and Referendum Amendment for Counties and Townships. This constitutional amendment would give counties and townships the ability to engage in the initiative and referendum process. This amendment is also supported by the Ohio Community Rights Network and the Community Environment Legal Defense Fund. Colorado and Oregon have passed similar measures in recent years. Attorney General Mike DeWine certified the petition for the Initiative and Referendum Amendment for Counties and Townships on November 27, 2017. On December 5, 2017, the Ohio Ballot Board certified the Ohio Community Rights Amendment and the Initiative and Referendum Amendment for Counties and Townships each as containing single issues. Supporters of these two ballot issues are likely gathering signatures in an attempt to be placed on the November 2018 ballot.

Kidney Dialysis Patient Protection Amendment. Kidney Patients Deserve Better is a group that is seeking to place a constitutional amendment proposal on the November 2018 Ballot to limit dialysis corporations’ revenues to 15 percent above the amount they spend on patient care. This proposal was certified by the Ohio Ballot Board as a single issue on February 20, 2018. The group will now begin gathering 305,591 signatures by July 4, 2018 to place the amendment on the November 2018 ballot. Opponents of the proposal, including the Ohio Renal Association, believe the amendment’s provisions would create redundant regulations that could jeopardize care for an estimated 18,000 Ohioans. Opponents also believe if the amendment is successful, many clinics will reduce services or close operations completely.

Two similar proposals are also being pushed in California by the Service International Employees Union, United Healthcare Workers West, which will need to collect 365,880 signatures to qualify for the November 2018 Ballot in California.

Right to Work Resolutions. Representatives Craig Riedel (R-Defiance) and John Becker (R-Union Twp.) introduced multiple House Joint Resolutions relating to right-to-work and prevailing wage issues. The two legislators introduced H.R.J. 7, 8, 9, 10, 11, and 12. The General Assembly must pass the resolutions by three-fifths majority in order for the proposals to be on the 2020 ballot. H.J.R 7 and 8 would ban any laws, rules or agreements requiring public and private sector employees to join or pay union dues and prohibit unions from representing non-members in employment matters. H.J.R. 9, 10, 11, and 12 would do the following: (1) prevent

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public authorities from requiring prevailing rate of wages; (2) forbid certain requirements or prohibitions regarding labor agreements in government contracts; (3) subject any public employee collective bargaining representative to an annual election to remain certified as the exclusive representative; and (4) prohibit dues from being deducted from the payroll check of a public employee. The sponsors and the Legislative Services Commission are still trying to work out whether or not the resolutions are in violation of federal labor and employment law.

Republican gubernatorial candidate Attorney General Mike DeWine has publicly stated that that right-to-work legislation is not on his agenda at all and that he has not looked at any ballot language regarding the topic.

H.J.R. 5—Ballot Issues. Representative Niraj Antani (R-Miamisburg) is sponsoring House Joint Resolution 5, which proposes several amendments to the Ohio Constitution that will modify the requirements for proposing and adopting constitutional amendments and proposed laws. The resolution was introduced on November 1, 2017 had its first hearing in the House Government Accountability and Oversight Committee on January 10, 2018. H.J.R. 5 increases the number of petition signatures needed, signatures of 12.5 percent of electors are required for proposed constitutional amendments and signatures of 3.75 percent of electors for proposed laws. H.J.R. 5 also requires 60 percent of affirmative votes for passage for both constitutional amendments and proposed laws, and bans the monetary compensation of petition gatherers. Representative Antani’s proposal is not too dissimilar from the statewide ballot initiative discussions and/or possible proposals of the Ohio Constitutional Modernization Commission in 2015-2017. The business trade associations, including the OMA, viewed the OCMC discussions seriously, but noted the discussions likely lacked the substantive changes necessary to meaningfully alter the ease with which out of state entities continue to seek changes to Ohio statutory schemes and the Ohio Constitution. Despite initial discussions on the OCMC challenges, Representative Antani did not seek input for his proposal or have initial discussions with the business community prior to the introduction of H.J.R. 5.

III. Tort Reform.

Prior to former Speaker Cliff Rosenberger’s (R-Clarksville) resignation in April 2018, there was discussion that he was interested in additional potential tort reform measures. As a result, the Ohio Alliance for Civil Justice members, including the OMA, began having conversations on various tort reform measures. Since those conversations, a bill to shorten the statute of limitation on an action regarding a contract has been introduced. Additionally, prior conversations regarding extending the current statute of repose have subsided due to the settlement reached between the state and the victims of the tragic Fire Ball ride accident at the Ohio State Fair that killed one person and injured seven others.

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H.B. 694 – Contract Limitations. Representative George Lang (R-West Chester) introduced this bill that will shorten the statute of limitations for any action regarding a contract in writing from eight years to three years. Additionally, the bill places a limit on the statute of limitations for an action regarding a contract not in writing to three years as well. The bill has not been referred to a committee yet.

H.B. 20 – Compensatory Damages. This bill is sponsored by Representatives Anne Gonzales (R-Westerville) and Representative Kristin Boggs (D-Columbus). It will remove the cap on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action when the tort action is brought by a victim of rape, felonious assault, aggravated assault, assault, or negligent assault. H.B. 20 was introduced on February 1, 2017. It was referred to the House Government Accountability and Oversight Committee. It has not yet had a hearing.

H.B. 271 – Accessibility Laws. Representatives Rob McColley (R-Napoleon) and Jeff Rezabek (R-Clayton) are sponsoring this bill. H.B. 271 will authorize an alleged aggrieved party to provide a notice of an alleged accessibility law violation in advance of filing a civil action. The bill also establishes the circumstances under which an alleged aggrieved party is entitled to attorney’s fees in a civil action based on the violation.

The bill was introduced on June 12, 2017 and was referred to the House Civil Justice Committee. It has had four committee hearings. The House passed H.B. 271 (90-0) on February 28, 2018. The bill had its first hearing in the Senate Judiciary Committee on May 22, 2018.

Supporters of the bill say that it will protect businesses from predatory lawsuits filed for minor or technical violations of the Americans with Disabilities Act (“ADA”). The latest version of the bill provides for a 60 day window to cure a problem of noncompliance with the ADA. Additionally, the language clarifies that existing housing discrimination laws are not included in the notification requirement provision of the bill. The bill allows an alleged aggrieved party to notify the owner, agent, or other responsible party of the property where the alleged violation occurred by personal service or certified mail and generally prohibits attorney’s fees if such a notice isn’t provided.

IV. Pending Legislation (2017-2018).

H.B. 2 – Civil Rights Laws. Representative Bill Seitz (R-Cincinnati) sponsored H.B. 2. The bill was introduced in the House on February 1, 2017 and referred to the House Economic Development, Commerce and Labor Committee. H.B. 2 has had six committee hearings. On May 9, 2017, the House Economic Development, Commerce and Labor Committee voted (9-5) the substitute version of the bill out of the Committee. The OMA, Ohio Alliance for Civil

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Justice, Ohio Chamber of Commerce and NFIB submitted written proponent testimony to the House Economic Development, Commerce and Labor Committee on February 21 and 28, 2017.

The substitute bill requires one to file a charge of discrimination before the Ohio Civil Rights Commission before filing a lawsuit. The substitute bill also extends the previously proposed one-year statute of limitations for such claims to two years. Sub. H.B. 2 prohibits the filing of a lawsuit unless one (1) has received a notice of the right to sue from the OCRC, or (2) has requested a notice and the commission fails to issue the notice within 45 days after the required date, or after the panel determines it is probable that discrimination took place in that case. Additionally, the bill permits a person to file a lawsuit without notice of the right to sue if the person seeks only injunctive relief or the person has filed a charge with both the OCRC and the federal Equal Employment Opportunity Commission.

Sub. H.B. 2 restores individual liability compared to the introduced version by permitting a person to file a lawsuit or Ohio Civil Rights Commission charge alleging an individual who is not the employer retaliated against the victim or aided the discriminatory behavior. The bill removes supervisory liability but aligns the Ohio definition of “agent of the state, political subdivision or person” to federal code. Sub. H.B. 2 codifies affirmative defenses for sexual harassment claims to match federal law.

This bill has been a business community objective since it was not included as a part of Senate Bill 80 decades ago but the self-described supporter of the business community has never found the time to push the bill across the line. Additional efforts will be made to try to get this to a positive resolution.

S.B. 293 – Reduction of Agency Regulations. On April 23, 2018, Senate President Pro Tempore Bob Peterson (R-Washington Court House) and Senator Rob McColley (R-Napoleon) introduced this bill, which requires agencies to reduce the number of regulatory restrictions. The bill was referred to the Senate Transportation, Commerce and Workforce Committee where it has had two hearings. During its second hearing, many business groups provided proponent testimony explaining that the bill will support economic growth and business development in Ohio.

Specifically, the bill requires a state agency to amend or rescind rules identified in its inventory of regulatory restrictions as necessary to reduce the total number of regulatory restrictions by 30 percent according to a specific schedule set forth in the language. Senate President Larry Obhof (R-Medina) has listed this bill as a priority for the Senate for the remainder of the year.

H.B. 160 – Discrimination. This bill, which is sponsored by Representative Nickie Antonio (R-Lakewood), will enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression. The bill seeks to add mediation to the list of informal methods by which the Ohio Civil Right Commission may use to induce compliance

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with Ohio’s Civil Rights Law before instituting a formal hearing. The bill also will uphold existing religious exemptions under Ohio Civil Rights Law.

It was introduced on May 28, 2017 and has had two hearings in House Government Accountability and Oversight Committee. The bill has received strong support from the business community. Many business groups are supportive of the bill because they recognize the importance of diversity in the workplace and believe that improvements should be made to protect against discrimination of any type.

H.B. 187 – Employee Hiring Information. Representative Jonathan Dever (R-Madeira) is sponsoring H.B. 187, which will regulate the collection, use, and retention of certain information obtained from an applicant during the employee selection process. The bill was introduced in the House on April 24, 2017 and was referred to the House Community and Family Advancement Committee. H.B. 187 has had three hearings.

H.B. 641 – Forklift Tax Exemption. This bill will exempt from sales and use tax things purchased by an interstate logistics business and used primarily to move completed manufactured products to the point from which they are shipped from a manufacturing facility and related power sources. H.B. 641 is sponsored by Representative Niraj Antani (R-Miamisburg) and had its first hearing in the House Ways and Means Committee, where Representative Antani mentioned that H.B. 641 will help increase Ohio’s competitiveness given that Indiana already offers such tax relief for forklift purchases. He also mentioned that a “qualifying business” is “a person that is in the transportation and warehousing sector by the North American industrial classification system, and that is primarily engaged in the business of transporting tangible personal property in trucks to destinations outside this state.”

V. 2018 Political Update.

Please see the 2018 Primary Election and Political Update Memorandum attached to this Report.

VI. Tax Report.

Please see the attached Tax Counsel Report.

VII. Litigation and Amicus Activity Update.

State of Ohio v. Du Pont de Nemours and Co., Washington County Common Pleas Court, No. 180T000032

On February 8, 2018, Ohio Attorney General Mike DeWine filed a lawsuit against DuPont and the Chemours Company in the Washington County Common Pleas Court alleging that the

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company released perfluorooctanoic acid (PFOA) from its 1,200 acre facility on the Ohio River for decades, all while knowing the harms the toxic chemical posed to people and the environment.

The complaint cites a 2017 University of Cincinnati study that found residents of the Mid-Ohio River Valley had elevated levels of PFOA. The state further alleges that at least 150,000 pounds of the chemical used to manufacture Teflon products was put into the Ohio River in the 1980s and an additional 350,000 pounds was discharged into the river in the 1990s. The complaint alleges that DuPont negligently caused environment contamination and created a public nuisance through its release of PFOA in the air, soil, and water.

The state is asking for (1) a declaration of DuPont's duty to compensate the state for expenses related to the contamination from the chemical; (2) damages for injury to the state's natural resources; (3) an award of present and future costs to clean up the contamination; and (4) restitution damages for profits DuPont obtained through the conduct alleged in the complaint.

On April 12, 2018, Defendants each filed a motion to dismiss arguing among other things. DuPont argues that the court lacks jurisdiction because the US EPA consent orders preempt such claims and that the state lacks standing. Defendant Chemours Company's motion to dismiss argues that the state failed to state a claim upon which relief can be granted against Chemours. On May 14, 2018, the state filed its memoranda in opposition to Defendants' motions to dismiss.

State of Ohio v. Purdue Pharma L.P., et al., Ross County Common Pleas Court, No. 17CI000261

On May 31, 2017, Ohio Attorney General Mike DeWine filed an action in Ross County Common Pleas Court against several manufacturers of opioids, including Purdue Pharma (which sold OxyContin) and Endo Health Solutions (which sold Percocet). The lawsuit alleges that the defendant drug companies violated the Ohio Consumer Sales Practices Act and created a public nuisance by disseminating false and misleading statements about the benefits and risks of opioids. The suit alleges that the defendant drug companies' conduct increased the prescription of opioids and fueled Ohio's opioid crisis. Among other remedies, the State seeks an injunction to stop continued misrepresentations and damages for the money the State spent on opioids.

The drug company defendants moved to dismiss the complaint and sought a stay of discovery. The motions to dismiss are fully briefed. On March 28, 2018, the trial court denied defendants' motion to stay discovery pending the results of the multi-district litigation, but granted their motion to stay discovery pending the trial court's ruling on the motions to dismiss. On April 30, 2018, the trial court held oral argument on defendants' motions to dismiss (and other pending motions). The trial court has not yet released a written decision.

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State of Ohio v. McKesson Corporation, et al., Madison County Common Pleas Court, No. CVH20180055

On February 26, 2018, Ohio Attorney General Mike DeWine filed an action in Madison County Common Pleas Court against the following distributors of opioids: McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Drug Corporation, and Miami-Luken, Inc. The lawsuit alleges, among other things, that these distributors acted irresponsibly in oversupplying the market in and around Ohio with opioids and failed to report suspicious orders to the U.S. Drug Enforcement Agency and the Ohio Board of Pharmacy. The suit alleges that these companies should have known that the volume of opioids supplied far exceeded what could responsibly be used in Ohio, thereby fueling Ohio’s opioid epidemic.

The State seeks a number of remedies, including punitive damages and compensatory damages for increased costs Ohio incurred for criminal justice, healthcare, social services, and education related to the opioid epidemic.

On May 30, 2018, Amerisource Bergen Drug Corp., Cardinal Health, Inc. and McKesson Corp. filed a joint Civ.R. 12(B)(6) motion to dismiss the complaint. On June 1, 2018, Miami-Luken, Inc. filed a Civ.R. 12(B)(6) motion to dismiss the complaint. The Court has allowed the State 28 days to respond to the motions to dismiss.

Turner v. Union Carbide Corp., Ohio Sup. Ct. No. 2017-0004

This case involves a lung cancer claim under Ohio’s asbestos litigation statutes.

Bobby Turner alleged that he developed lung cancer asbestos exposure during his employment. Union Carbide moved to administratively dismiss the action pursuant to R.C. 2307.92 and R.C. 2307.93, which require a “smoker” to provide prima facie evidence that the lung cancer was caused by asbestos exposure. Under R.C. 2307.91(DD), a “smoker” is defined as “a person who has smoked the equivalent of one-pack year, as specified in the written report of a competent medical authority pursuant to [R.C. 2307.92 and 2307.93], during the last fifteen years.” (Emphasis added).

Rather than submit the report of a competent medical authority to show that he was a non-smoker, Turner submitted his own self-serving affidavit and affidavits from his friends and family stating that they had not “seen” him smoke. Other evidence, contradicted these affidavits, including Turner’s medical records which indicated that Turner had smoked cigars for 40 years and was still smoking cigars at the time of treatment for lung cancer.

The trial court ruled that Turner did not need to submit “a written report from competent medical authority” and then concluded Turner was not a smoker. As a result, he was not required to

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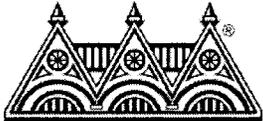
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submit prima facie evidence that his lung cancer was caused by asbestos exposure. The Eighth District affirmed.

Union Carbide appealed and sought the support of the OMA and other organizations in urging the Ohio Supreme Court to accept the discretionary appeal. This case is of import to the OMA because it involves an important provision of Ohio's asbestos litigation reform law (enacted in 2004). There are approximately 10,000 new lung cancer cases diagnosed in Ohio each year. This provision is designed to screen out lung cancer cases not caused by exposure to asbestos, so that Ohio does not again become a haven for dubious asbestos case filings.

The Court accepted the appeal. Oral argument was heard on February 13, 2018 and the parties are awaiting a decision.



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI | DAYTON
MARIETTA

BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
MAIN: 614.227.2300
FAX: 614.227.2390

www.bricker.com
info@bricker.com

Christopher N. Slagle
614.227.8826
cslagle@bricker.com

Amanda M. Grandjean
614.227.6062
agrandjean@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
FROM: Bricker & Eckler LLP
DATE: June 6, 2018
RE: Proposed Gun Legislation.

I. Introduction.

The Ohio General Assembly has introduced a series of firearm and weapon related bills that could negatively impact employer's and other property owners' ability to control weapons on their property. The OMA and other business groups have submitted letters to both Senate and House of Representatives ("House") leadership urging the legislature to either not move forward with these bills or to narrow the bills' broad language. In the wake of the tragic school shootings across the nation, various Democratic legislators and Governor John Kasich have also introduced proposals to regulate firearms. Please find an overview of the various gun bills in the 132nd General Assembly below.

II. 132nd General Assembly's Proposed Gun Legislation.

H.B. 233 Overview. The bill was introduced in the House on May 18, 2017 in the midst of the FY18-19 Biennial Budget ("H.B. 49") process. The bill is sponsored by (Rep. John Becker R-Union Township). The OMA submitted written opponent testimony to the House Federalism & Interstate Relations Committee on July 5, 2017. The House passed H.B. 233 on July 6, 2017 (64-31), largely along party lines. The bill was referred to the Senate Government Oversight & Reform Committee. It has received no hearings thus far.

H.B. 233 is part of a series of bills that several members of the General Assembly have introduced since the 131st General Assembly Lame Duck Session to relax gun restrictions in Ohio. The OMA opposed the inclusion of language in H.B. 49 that created a private cause of action against a property owner who prohibits or effectively prohibits the "injured" individual's ability to have a concealed handgun in a motor vehicle where that motor vehicle would otherwise be permitted to be. Although this language was amended, the cause of action remained a part of H.B. 49.

The bill allows a concealed handgun license holder or qualified military member to avoid charges for entering a gun-free zone with a firearm. Under current law, entering a gun-free zone with a firearm is a fifth-degree felony subject to up to 12 months in prison and a \$2,500 fine. However, this bill substantially relaxes penalties. Individuals discovered carrying a weapon in

such a location may only be charged with a crime if he or she refuses to leave, or knowingly returns, within 30 days with a deadly weapon.

The bill allows a concealed handgun license holder to knowingly enter a gun-free zone without a criminal penalty. H.B. 233 does nothing to deter an individual from entering a gun-free zone with a concealed handgun. To the contrary, the bill insulates such individuals from receiving any penalty for knowingly ignoring a restriction by a property owner to keep guns off the premises.

Even if a property owner, including a business owner or manufacturer, posted “no guns allowed” signs, a concealed handgun licensee could still bring a hidden loaded handgun onto the property and the property owner would have little legal recourse against the individual.

H.B. 233’s scope is extremely broad and affects any private “land or premises”, even with a posting of “no guns allowed”. Meaning, an employee could still enter the workplace with a loaded concealed handgun and not face a criminal charge.

S.B. 180 and H.B. 228 Overview. These two bills are so-called “stand-your-ground” bills. S.B. 180 was introduced in the Senate on August 15, 2017 and is sponsored by Senators Joe Uecker (R-Loveland) and Jay Hottinger (R-Newark). It has had four hearings in the Senate Judiciary Committee. This bill eliminates a person’s duty to retreat before acting in self-defense, defense of another, or defense of a person’s residence if that person is in a place in which the person lawfully has a right to be. The bill also shifts the burden of proof in self-defense cases.

H.B. 228 is the companion bill to S.B. 180. It is sponsored by Representatives Terry Johnson (R-McDermott) and Sarah LaTourette (R-Chagrin Falls). The bill was introduced on May 16, 2017 and was referred to the House Federalism & Interstate Relations Committee. The bill has had seven hearings and was reported out of Committee on May 22, 2018. H.B. 228 is primarily supported by gun rights groups, while anti-gun violence advocates from Moms Demand Action for Gun Sense in America vehemently opposed this measure. Moms Demand Action advocates testified that the bill will effectively allow for the carrying of firearms without a license.

Governor Kasich publicly stated that he will not sign this bill in the wake of the tragic school shooting in Parkland, Florida.

H.B. 201 and S.B. 142 Overview. This bill is likely the most comprehensive relaxation of gun regulations that this General Assembly has considered. H.B. 201 is sponsored by Representatives Ron Hood (R-Ashville) and Tom Brinkman (R-Mt. Lookout). The bill was introduced on May 3, 2017. It was referred to the House Federalism & Interstate Relations Committee where it received four hearings. The bill expands the definition of “concealed handgun” license.

S.B. 142 is the companion bill to H.B. 201. This bill is sponsored by Senator Kris Jordan (R-Ostrander). It was introduced and referred to the Senate Judiciary Committee in May 2017.

H.B. 201 allows a person who is 21 years old or older, and is not otherwise prohibited from possessing or receiving a firearm, to carry a concealed firearm that is not a restricted firearm without obtaining a concealed handgun license. A “restricted firearm” is defined under the proposed law as a “firearm that is dangerous ordnance or that is a firearm that any law of this state, or the United States, prohibits the subject person from possessing, having, or carrying.” A firearm means “any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant.” R.C. 2923.11(B)(1).

The bill prohibits law enforcement or any agent of the state, a county, a municipal corporation, or a township from conducting any search, seizure, or detention, “no matter how temporary in duration” because a person is carrying or possessing a firearm with or without a concealed handgun license.

H.B. 253 and S.B. 208 Overview. This bill is sponsored by Representatives Laura Lanese (R-Grove City) and Larry Householder (R-Glendale). The language allows an off-duty police officer to carry firearms in areas that are otherwise prohibited for CCW permit holders. It was introduced in May 2017 and has received four hearings in the House Federalism & Interstate Relations Committee. Business groups have been outspoken regarding their concern with H.B. 253, which would supersede business owners’ rights to prohibit guns on their properties.

The Committee adopted a substitute bill during H.B. 253’s fourth hearing, which allows officers to carry a firearm in a liquor establishment if acting within the scope of their duties; prohibits an establishment serving the public from restricting peace officers from carrying a weapon on the premises; and allows law enforcement officials to carry in courthouses.

Senator Lou Terhar (R-Cincinnati) is sponsoring S.B. 208, which is the companion bill to H.B. 253. This bill was introduced in the Senate on October 3, 2017 and passed the Senate (30-3) on April 11, 2018. The bill has had one hearing in the House Federalism & Interstate Relations Committee.

S.B. 242 Overview. Senator Frank LaRose (R-Hudson) is sponsoring this bill. The bill eliminates the prohibition against manufacturing, possessing for sale, selling, or furnishing certain weapons other than firearms or dangerous ordnance. While this bill does not pertain to firearms, it is relevant to the manufacturing of certain weapons, such as a spring-loaded knife. The bill has had one hearing in the Senate Judiciary Committee on April 10, 2018.

S.B. 219 and H.B. 395 Overview. This bill prohibits any person from importing, manufacturing, selling, transferring, or possessing a trigger crank, a bump-fire device, or any part, combination of parts, component, device, attachment, or accessory that is designed or functions to accelerate the rate of fire of a semi-automatic firearm, but not convert the semi-automatic firearm into an automatic firearm. The bill is sponsored by Senator Thomas (D-Cincinnati) and it was

introduced on October 17, 2017. The bill was referred to the Senate Government Oversight & Reform Committee, where it has had one hearing.

H.B. 395 is the companion bill to S.B. 219. It is sponsored by Representative Bill Patmon (D-Cleveland). H.B. 395 was introduced on October 26, 2017 and has had one hearing in the House Federalism & Interstate Relations Committee.

H.B. 305 Overview. Representatives Nickie Antonio (D-Lakewood) and Janine Boyd (D-Cleveland Hts.) are sponsoring this bill that requires a court that issues a protection order to determine if the respondent is prohibited from carrying or possessing a firearm. The language requires a court to determine whether an offender who has been convicted of specified offenses is prohibited from carrying or possessing a firearm. The bill also requires a respondent or offender who the court determines is prohibited from carrying or possessing a firearm to transfer all firearms in the person's possession to a law enforcement agency or a federally licensed firearms dealer. H.B. 305 was introduced on July 18, 2017 and has had one hearing in the House Federalism & Interstate Relations Committee on January 31, 2018.

III. Governor Kasich's Gun Policy Proposals.

On March 1, 2018, Governor John Kasich unveiled six proposals to curb gun violence while also protecting citizens' Second Amendment rights. The proposals were crafted by an eight-member group that consisted of former Representative Ron Maag, former Attorney General Betty Montgomery, former U.S. Congresswoman Deborah Pryce, former Senator Nina Turner, Jim Tobin of the Catholic Conference of Ohio, former Senate Presidents Doug White and Tom Neihaus, and law enforcement chief at the Department of Natural Resources.

The first proposal creates a new gun violence protection order ("GVPO") to allow certain people defined by law to petition a court to require a person to temporarily relinquish their firearms if it is determined by clear and convincing evidence that they are a threat to themselves or others.

The second proposal would prohibit anyone convicted of a domestic violence crime or subject to a domestic violence protection order, or others prohibited under federal law from buying or possessing a firearm.

The third proposal requires agencies to report convictions, sentencing records, and public mental health records as quickly as possible so that background checks of firearm purchasers are as complete and accurate as possible.

The fourth proposal prohibits the purchase of firearms for third parties (except as a gift), even if the third party is legally allowed to buy or own a firearm.

The fifth proposal prohibits the sale of armor-piercing ammunition.

The sixth proposal requires Ohio law to incorporate any future federal regulations that regulate bump stocks.

Governor Kasich released the proposals in the wake of a mass school shooting in Florida that left 17 people dead and the recent shooting deaths of two Westerville police officers. In March, Senate President Larry Obhof (R-Medina) indicated that he is not sure where lawmakers will land on the protection order proposal. Prior to his resignation, former Speaker Cliff Rosenberger (R-Clarksville) also said that Ohio House is open to finding ways to keep schools and communities safe, while continuing to defend and protect Ohioans' Second Amendment rights.

H.B. 585 Overview.

In April, Representative Michael Henne (R-Clayton) introduced H.B. 585, which encompasses many of the same ideas Governor John Kasich set forth in his proposals. The bill has had three hearings in the House State & Local Government Committee. Nearly 20 gun owners provided opponent testimony against the bill at its last hearing.

H.B. 585 includes language that creates extreme risk protection orders in which law enforcement or a family member could petition a court to force a person to relinquish their firearms if they are deemed a threat to themselves or others. The bill also bans the sale of armor-piercing ammunition, and prohibits so-called “strawman” purchases, or firearm acquisitions on behalf of a third party.

The proposed language also mirrors federal law regarding individuals who are prohibited from possessing a firearm or dangerous ordnance, including those who were convicted of a felony or domestic violence, violated a protective order, or were dishonorably discharged from the military. H.B. 585 requires protection orders to be entered into the federal National Crime Information Center and Law Enforcement Automated Data System databases and adopts the federal definition of an automatic firearm.

IV. Conclusion.

The General Assembly has continued to introduce sweeping gun legislation. The various legislative items are likely to have additional hearings in the Ohio House and Ohio Senate during the remainder of the General Assembly. However, Governor Kasich's recent statements regarding gun legislation indicate that he will not be as willing to sign legislation that expands guns rights as he has previously throughout his tenure as Governor. We will update the OMA on these ongoing issues and provide any guidance helpful for these proposals to help best protect the OMA and its members. Please let us know if we can answer any specific questions regarding the proposed gun legislation.



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI | DAYTON
MARIETTA

BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
MAIN: 614.227.2300
FAX: 614.227.2390

www.bricker.com
info@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
FROM: Bricker & Eckler LLP
DATE: June 6, 2018
RE: 2018 Ohio Primary Election and Political Update and Summary

On Tuesday, May 8, 2018, Ohioans cast ballots in the 2018 primary election. For the first time since 2006, five statewide elected offices were up for election without an incumbent running in the 2018 general election. Below, we have compiled results of some races of particular note and will continue to closely watch these races and others as we move toward the general election in November. (A full list of results from the Ohio House of Representatives and Ohio Senate races with primary contests is also included.)¹

U.S. Senate. Congressman Jim Renacci (R-Wadsworth) successfully defeated Cleveland businessman Mike Gibbons for the Republican nomination for U.S. Senator. Congressman Renacci received about 47 percent of the vote, while Mr. Gibbons received almost 32 percent of the vote. Congressman Renacci will face Democratic incumbent Senator Sherrod Brown in the November general election. Congressman Renacci branded himself as the “Trump” candidate, while Mr. Gibbons described himself as a moderate conservative outsider. President Trump publicly endorsed Congressman Renacci before the primary election.

U.S. House of Representatives. Former Republican Congressman Pat Tiberi retired from Congress in January 2018, and 17 candidates filed to fill his seat in Ohio’s 12th Congressional District. With a crowded Republican field for the special primary and primary elections, State Senator Troy Balderson (R-Zanesville) led his opponent in both races with about 29 percent of the vote for the special primary election for the unexpired term and 29 percent of the vote for the primary election for the new term. Challenger Melanie Leneghan, a township trustee and a vocal supporter of President Trump, looked to be very closely behind Senator Balderson as of publication of this memo. Ms. Leneghan had the support of U.S. Congressman and former Chairman of the Freedom Caucus Jim Jordan. She received 28 percent of the vote in the special primary election for the unexpired term and about 28 percent in the primary election for the new term.

In the Democratic primaries, Franklin County Recorder Danny O’Connor Jr. emerged from a field of six candidates and will face the Republican nominee

¹ This report is based on the Ohio Secretary of State’s Unofficial May 8, 2018 Primary Election Results, <https://vote.ohio.gov/>.

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Senator Troy Balderson in both the special election on August 7, 2018, and the general election in November 2018. This election is expected to garner national attention as elections forecasters have been predicting a close contest for this normally-reliable Republican congressional district.

Current State Representative Christina Hagan (R-Alliance) ran against former Ohio State University football player Anthony Gonzalez for Congressman Renacci's seat. Mr. Gonzalez, who has never held elected office before, won the Republican nomination for the Ohio's 16th Congressional District with about 53 percent of the vote.

Governor. Ohio's Attorney General Mike DeWine and Secretary of State Jon Husted defeated Lt. Governor Mary Taylor and Nathan Estruth for the Republican nomination for Governor, receiving about 60 percent of the vote. The Republican primary was particularly heated between Attorney General DeWine and Lt. Governor Taylor. Lt. Governor Taylor branded herself as the "Trump" candidate. Lt. Governor Taylor called Attorney General DeWine to concede the election around 9:00 p.m.

Richard Cordray, former director of the Consumer Financial Protection Bureau (CFPB) and a former Ohio Attorney General, prevailed in the Democratic Primary against former U.S. Congressman Dennis Kucinich, State Senator Joe Schiavoni (D-Boardman) and former Ohio Supreme Court Justice Bill O'Neill, among other Democratic opponents. Mr. Cordray received about 62 percent of the vote, beating early poll numbers by more than 10 points. The 2018 general election's race for governor is a rematch from the 2010 election for Ohio Attorney General where Mike DeWine won a very close race against Richard Cordray.

Treasurer. Two Republicans sought the nomination for state Treasurer. State Representative Robert Sprague (R-Findlay) defeated former treasurer for Ashtabula County Sandra O'Brien with about 60 percent of the vote. Ms. O'Brien had previously run for Ohio Treasurer of State in 2006 after winning a primary election over Republican State Treasurer Jennette Bradley. However, she was defeated in the 2006 general election by first-time successful statewide candidate Richard Cordray. Representative Sprague was the candidate officially endorsed by the Ohio Republican Party.

The Democratic nominee Rob Richardson was unopposed. Mr. Richardson is a lawyer from Cincinnati and previously ran unsuccessfully to become Cincinnati's mayor.

Attorney General. Auditor Dave Yost ran unopposed for the Republican nomination for Attorney General. Likewise, former U.S. Attorney Steve Dettelbach was unopposed for the Democratic nomination.

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Secretary of State. Both State Senator Frank LaRose (R-Hudson) and State Representative Kathleen Clyde (D-Kent) were unopposed for the Republican and Democratic nomination for Secretary of State.

Auditor. Former Senate President and current State Representative Keith Faber (R-Celina) and former U.S. Congressman Zack Space (D-Dover) were both unopposed for their parties' respective nominations.

Ohio Supreme Court. Neither of the two seats on the Ohio Supreme Court had contested primaries in the 2018 primary election. Republican Fifth District Court of Appeals Judge Craig Baldwin will face Democratic Cuyahoga County Common Pleas Court Judge Michael Donnelly to replace Justice Terrence O'Donnell. Earlier this year, Governor John Kasich appointed Justice Mary DeGenaro, previously of the Seventh District Court of Appeals, to replace Justice Bill O'Neill, who ran for the Democratic gubernatorial nomination, for the remainder of the unexpired term. Justice DeGenaro will run against Democratic Eighth District Court of Appeals Judge Melody Stewart for the new term.

Ohio House. There were 48 contested primaries for Ohio House of Representative seats. Notably, incumbent Representative Wes Retherford (R-Hamilton) was defeated by philanthropist Sara Carruthers. Former Representative Greg Jolivette, a former Hamilton mayor and Butler County commissioner, also ran in this primary for the Republican nomination against Representative Retherford. Incumbent Representative Niraj Antani (R-Miamisburg) won his primary against two challengers for the 42nd House District, receiving about 63 percent of the vote.

Democrats also had several primaries in Ohio House seats. Business specialist Terrence Upchurch won an eight-person primary for the 10th House District by 30 percent of the vote. Mr. Upchurch will likely be the next 10th House District Representative, as there is no Republican challenger in the general election. Senator Mike Skindell (D-Lakewood) successfully defeated Thomas Bullock in the primary for the 13th House District. Mr. Bullock was endorsed by the Cuyahoga Democratic Party and U.S. Congresswoman Marcy Kaptur (D-Toledo).

After an intense primary election season, the House must now turn its attention to replacing former Speaker of the Ohio House Cliff Rosenberger who resigned in April. The race for interim Speaker of the House for the remainder of the 132nd General Assembly was originally set for May 15, 2018. However, Republican Caucus has failed to elect a new Speaker. The race for interim Speaker has been between Chairman of the House Finance Committee Representative Ryan Smith (R-Bidwell) and Representative Andy Thompson (R-Marietta). Pursuant to House rules, a candidate must receive 50 votes to be elected. Representative Thompson has been viewed as a surrogate for Representative Larry Householder (R-Glendale). Representative

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Householder has been campaigning against Representative Smith to be Speaker of House for the 133rd General Assembly.

Ohio Republican Party Chairman Jane Timken, current Speaker Pro Tempore Kirk Schuring (R-Canton), and Representative Householder reportedly reached a deal where Representative Schuring would preside over the House until session ends in December. However, Representative Smith and his supporters did not support the proposed deal. As such, Representative Schuring required members of the House, including Democrats to tell him how the chamber will go about selecting a new leader by June 2, 2018. House members were required to tell Representative Schuring if they want the June 6, 2018 session date to vote to select a new speaker or change the House rules so that Representative Schuring can continue to run the House through the end of the year as Speaker Pro Tempore. If the House elects a new Speaker, Representative Smith, House Minority Leader Fred Strahorn (D-Dayton), and Representative Thompson are all likely nominees.

Ohio Senate. Incumbents were generally successful in the primary election for Ohio Senate. Senator Robert McColley (R-Napoleon), who was appointed to represent the 1st Senate District, won the primary by more than 61 percent of the vote. Likewise, Senator Steve Wilson (R-Maineville), who was also appointed to the Senate, defeated his primary challenger by 57 percent of the vote. Representatives Andrew Brenner (R-Powell) and Nathan Manning (R-North Ridgeville) won their nominations to seek open seats in the Senate.

Senate Majority Leader Kenny Yuko (D-Richmond Heights) won his race against term-limited Representative John Barnes Jr. (D-Cleveland) for the 25th Senate District with about 59 percent of the vote. Senators Sandra Williams (D-Cleveland) and Cecil Thomas (D-Cincinnati) were also successful in their primary elections. Representatives Nickie Antonio (D-Lakewood), Hearcel Craig (D-Columbus) and Teresa Fedor (D-Toledo) won their primaries for open Senate seats. Representative Antonio defeated Representative Martin Sweeney (D-Cleveland) for the 23rd Senate District nomination, receiving about 54 percent of the vote.

Issue 1 – Congressional Redistricting. Issue 1 passed by over 74 percent of the vote. This bipartisan congressional redistricting proposal establishes a three-tiered process where the General Assembly will get the first attempt at drawing a ten-year map. Issue 1 is a General Assembly initiated constitutional amendment. The General Assembly created this bipartisan plan to change congressional redistricting in Ohio throughout the first several months of 2018. The new map is required to keep 65 counties whole within congressional districts and can only divide up to 18 counties once and up to five counties twice. The proposed map must be approved by a supermajority of both chambers, including 50 percent of the minority party.

If the General Assembly fails to pass a congressional map with bipartisan support, the Ohio Redistricting Commission is able to draw a second draft of a map. The Ohio Redistricting

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Commission is composed of seven members. If the map cannot get two minority party members' approval, the General Assembly receives the opportunity to draw another draft map. If the Ohio General Assembly fails to get one-third of the minority party to approve the map, it is only good for four years, instead of 10, and must adhere to stricter rules for splitting counties.

Ohio House of Representatives Candidates
*Primary election winners in bold.

District Number	Incumbent	Candidate(s)	
		Republican	Democrat
6		Michael Canty Jim Trakas	Phil Robinson
8	Kent Smith		Kent Smith Cassandra McDonald
10			Nelson Cintron Jr. TJ Dow Kyle Earley Ronnie Jones Aanand Mehta Billy Sharp Danielle Shepherd Terrence Upchurch
12			Juanita Brent Patrice Brown Earl Campbell Sr. Yvonka Hall Dimitri McDaniel Isaac Powell
13		Jay Carson	Tom Bullock Michael Skindell
14			Carl J. Burgio Steve Holecko Rick Raley Bride Rose Sweeney
16	Dave Greenspan	Dave Greenspan Monique Jonevieve Boyd	Cassimir Svigelj
19		Tim Barhorst Chris Curry Dave Ferguson	Noni Banks Mary Lightbody
21		Stu Harris Doug Smith	Beth Liston Mindy Yocum
24		Erik Yassenoff	Andrea Bonny Mary Relotto Allison Russo
25	Bernadine Kennedy	Debbie Staggs	Bernadine Kennedy

	Kent		Kent Ismail Mohamed Lamar Peoples II
26		Shareeque Arife Sadiq	Michael Cole Erica Crawley
28		Jonathan Dever	Jessica Miranda Paul Sohi
33			Sedrick Denson Kathy Goodwin- Williams
36	Anthony DeVitis	Anthony DeVitis	Timothy Piatt J. Noah Spinner
37		Mike Rasor Craig Shubert Dexter Vaughan	Casey Weinstein
39	Fred Strahorn		Fred Strahorn Walter James Hickman, Jr.
40		Phil Plummer	Albert Griggs Ryan Taylor
42	Niraj Antani	Niraj Antani Sarah Clark Marcus Rech	Zach Dickerson Autumn Kern
43		Kenneth Henning Jeffrey Todd Smith	Dan Foley
44		Kenneth Cousino	Paula Hicks-Hudson Robert James Worthington
47	Derek Merrin	Derrek Merrin Barbara Lang	Gary Newnham
50		Josh Hagan Reggie Stoltzfus	Cassie Gabelt
51	Wes Retherford	Wes Retherford Sara Carruthers Greg Jolivet	Susan Vaughn
56		Rob Weber	Mark Ballard II Joe Miller Claudia Olaes Cory Shawver

59		Don Manning	Larry Moliterno Eric Ungaro
61		John Plecnik Jamie Callender	Rick Walker
62	Scott Lipps	Scott Lipps Daniel Kroger	Jim Staton
64	Michael O'Brien	Randy Law Martha Yoder	Michael O'Brien
65	John Becker	John Becker Erin Neace	Patricia Lawrence
66	Doug Green	Doug Green	Brian Flick Jeff Richards
67		Kris Jordan Denise Martin Brian Lorenz	Cory Hoffman
72	Larry Householder	Larry Householder Kevin Black	Tyler Shipley
73	Rick Perales	Rick Perales Jocelyn Smith	Kim McCarthy
75	Jim Lutz	Jim Lutz	Denise Baba Randi Clites Alice Freitas
78	Ron Hood	Ron Hood Austin Reid Andrew Smigelski	Amber Daniels
80		John O'Brien J.D. Winteregg Jena Powell George Lovett	
81	Jim Hoops	Jim Hoops Thomas Liebrecht	Janet Breneman
83		Jon Cross Cheryl Buckland	
84		Travis Faber Aaron Heilers Susan Manchester	Joe Monbeck
85	Nino Vitale	Nino Vitale Rochiel Foulk Justin Griffis Joseph Ratermann	Garrett Baldwin

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86		Tracy Richardson Robert Matthew Sammons	Glenn Coble
87	Riordan McClain	Riordan McClain Steve Reinhard Doug Weisenauer	Mary Pierce- Broadwater
90		Brian Baldrige Gina Collinsworth Justin Pizzulli Scottie Powell	Adrienne Buckler Joni Fearing
91		Beth Ellis Shane Wilkin	Justin Grimes
96	Jack Cera	Bob Mazerowski Fiona Ruminski	Jack Cera
97	Brian Hill	Brian Hill	Kristine Geis Jennifer Riesbeck Mahoney
98		Mark Behrendt Shane Gunnoe Larry Hawthorne Brett Hudson Hillyer Greg Ress	Jeremiah Johnson

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Ohio Senate Candidates

*Primary election winners in bold

District Number	Incumbent	Candidate(s)	
		Republican	Democrat
1	Robert McColley	Robert McColley Bob Barker Jr. Craig Kupferberg	Adam Papin
3		Anne Gonzales	Tina Maharath Katherine Chippis
7	Steve Wilson	Steve Wilson Brad Lamoreaux	Sara Bitter
9	Cecil Thomas		Cecil Thomas Dale Mallory
11		Ernest McCarthy	Michael Ashford Teresa Fedor
13		Nathan Manning Ryan Sawyer	Sharon Sweda
15		Jordan Garcea	Hearcel Craig Jodi Howell
19		Andrew Brenner Joel Spitzer	Louise Valentine
21	Sandra Williams		Sandra Williams Willie Lewis Britt Jeff Johnson Bill Patmon
23			Nickie Antonio Mark Clark Martin Sweeney
25	Kenny Yuko	Bob Murphy	John E. Barnes Jr. Kenny Yuko Renee Lindsley

Public Policy “Hot Topics” June 6, 2018

Overview

The surprise resignation of the Speaker of the House and contest to succeed Cliff Rosenberger has dominated state public policy over the quarter. The mid-term election will see changes to all of Ohio’s statewide offices, the first rotation in eight years. Top OMA issues over the quarter have been electricity regulation, Lake Erie nutrient reduction, work force development.

132nd General Assembly

June 6 is the final scheduled session date for the House and Senate but several remaining if-needed session dates are scheduled through late June. The House has been unable to conduct business without a Speaker. If the selection is made this week, expect the House to add session days in June and over the summer to deal with a 2-month backlog. A post-election or “lameduck” session is to be expected after the November general election.

Speaker of the House Vacancy

Amid reports that he had been questioned by FBI investigators involving foreign travel with certain lobbyists, Speaker of the House Cliff Rosenberger announced he would resign for the good of the institution even though he refuted charges of wrongdoing. The Speaker of the House is widely considered the second top state government official. House rules preclude official business from being conducted by an acting Speaker. A contest was already underway between Finance Chair Ryan Smith and Representative Larry Householder, the one-time Speaker of the House from Perry County who is currently serving in his first term in the House after leaving Columbus in 2004. A vote to elect a Speaker has been set for June 6 at 11:00am.

FirstEnergy Wins Subsidies after Subsidiary Files Bankruptcy

In March, FirstEnergy’s affiliate corporation that owned nuclear power plants filed for bankruptcy protection. June 1 media reports that the Trump Administration will take unprecedented action to order customers to subsidize the unprofitable nuclear power plants and certain coal plants. See Energy Report.

Electric Utilities Seek \$Billions for Power Plant Subsidies

In 2017 the PUCO set a new precedent in awarding utility companies with billion dollar subsidies to prop up the companies and their subsidiaries. The OMA Energy Group (OMAEG) opposed the FirstEnergy proposal and has appealed the matter to the Supreme Court.

Not satisfied with the action by the PUCO, FirstEnergy, AEP and other electric utilities are advocating for a series of legislative proposals forcing customers to pay billions in new above-market charges. The OMA is opposing these proposals. See Energy Section.

Protect Competitive Electric Markets

The OMA has been a proponent of markets, supporting the original deregulation legislation. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation while increasing grid reliability. But, customers have been denied the low cost benefits of competition due to proliferating above-market charges approved by state regulators. The OMA is supporting a legislative reform package to empower market forces to set power costs in Ohio. See Energy Section to learn more about HB 247.

Environment

Ohio EPA has announced plans to introduce legislation that would mandate a statewide monthly average phosphorus limit for all treatment works in Ohio, including manufacturing direct dischargers. The General Assembly has not gone along with the idea and instead introduced its own bills providing funds to address lake water quality. Governor Kasich is contemplating whether or not to issue an executive order regarding Lake Erie and phosphorus.

Workforce Development

Last November, the OMA hosted 500 members, manufacturers and their workforce suppliers, including government, education and training, and economic development professions to work on improving the talent pipeline for Ohio's leading industry: manufacturing. A second summit is being planned for November 1, 2018 to build on the workforce successes over the past year. Make sure your company is plugged in and supporting the effort.

The OMA is supporting an industry sector partnership model on a regional basis. Your company is invited to opt-in to next steps and participate in 2018 activity. Please contact the OMA to get your local facilities to engage in this regional effort to develop a modern manufacturing workforce.

Unemployment Compensation

The legislature failed to pass an unemployment solvency package in the waning days of the 131st General Assembly. The business community continues to advocate for a comprehensive solution to adequately fund the trust fund. OMA continues to advocate against any solution that does not include comparable benefit reductions.

Representative Schuring introduced House Bill 382, which is a standalone effort not backed or supported by any of the interested parties. Rep. Schuring designed the bill to be a starting point of new negotiations. The bill has had 20 hearings in committee. Minimal testimony has been offered and the business community cannot support the Schuring effort. The Senate has yet to provide a bill and have relied on Senator Peterson to work with the interested parties on a solution.

State Budget & Tax Policy

The Ohio Department of Taxation is expected to release an update to the manufacturing sales and use tax exemption. The OMA had a working group offer suggestions and edits last year to the Department.

Tort Reform

The OMA is supporting legislation to shorten the statute of limitations for business contracts. The OMA is also working to protect the advantageous statute of repose. See counsel's report.

Right to Work

With the approval of right-to-work legislation in West Virginia following narrowly successful veto override, pressure would seem to be mounting on a similar proposal in the Buckeye State. Unions are running a quiet campaign to taint the term "right to work." No action, again, and none is expected during the election year.

Workers' Comp & Industrial Commission

BWC Administrator Sarah Morrison has been recommended for an open federal judge position. While not formerly nominated OMA is expecting her to leave prior to the end of the year. BWC

continues to push wellness programs specifically designed to assist medium and smaller companies achieve a healthy and safe workforce.

Race for Ohio Leadership in 2018

Campaign season is well underway. The OMA will produce the OMA Election Guide detailing candidates and districts. The OMA staff will also provide resources for communicating the importance of manufacturing to candidates. At the September 13 meeting of the Government Affairs Committee in Cleveland we will host pollsters and/or prognosticators to forecast election trends. We have scheduled a conference call to interpret elections on November 7.



Memorandum

TO: OMA Members

FROM: Ryan Augsburger and Rob Brundrett, OMA Public Policy Staff

DATE: May 9, 2018

SUBJ: Ohio Primary Post-Election Highlights

Yesterday Ohioans went to the polls to choose Republican and Democrat standard-bearers in the November General Election.

Ohio has been a hotbed of partisan activity especially among Republicans running for governor and contested Ohio House seats that will impact the election of Speaker of the House.

Governor

Republican: John Kasich is term-limited and unable to run for re-election. Republican Mike DeWine and his running mate Jon Husted combined forces and were expected to perform well from the beginning. Challenger Lt. Governor Mary Taylor proved in the past few months that she would not go away. In what has been a barbarous display of negativity, both candidates as well as uncoordinated independent expenditure groups attacked each other's records, and tried to *out-conservative* the other candidate. DeWine-Husted had been polling ahead significantly for months and while Taylor-Estruth succeeded in putting some drag on the Attorney General and Secretary of State campaign, in the end the DeWine-Husted ticket soundly won. The fracture in the Grand Old Party may present trouble in November.

OUTCOME: DeWine-Husted defeats Taylor-Estruth 60%-40%

Democrat: Facing an opportunity to win back the Governor's Mansion, Ohio Democrats did not unify. Instead they dispersed into four main factions. Some political operatives believe Ohio, always a swing state, is in play as a national Democratic wave may be coming in reaction to anti-Trump fervor. Richard Cordray, a former Ohio Attorney General and consumer finance regulator, teamed up with former Congresswoman Betty Sutton. The pair brings wide appeal but more liberal factions produced several challengers. Former Cleveland Mayor and Congressman Dennis Kucinich had gained steam in recent months with his unique brand of liberal populism. Former Ohio Senate Minority Leader Joe Schiavoni entered the race earliest and earnestly campaigned for over a year but he had difficulty attracting resources. Former Supreme Court Justice Bill O'Neill has been an especially controversial candidate favoring marijuana and tangling with the #MeToo movement for his comments about women.

OUTCOME: Winning with a convincing performance, Cordray-Sutton prevailed over rivals with 62% of the vote and will face off against the DeWine-Husted juggernaut in the general election. Denis Kucinich wins congeniality prize with 23% of the vote.

U.S. Senate

Five Republicans battled for the right to challenge Senator Sherrod Brown in the general election. Congressman Jim Renacci had been running for governor, but abandoned the crowded gubernatorial primary and instead entered the Senate race with backing by state and national party leaders loyal to President Trump. Businessman Mike Gibbons ran a principled campaign and earned some valuable endorsements but could not prevail.

Outcome: Renacci won with 47%. Gibbons finished second with 32%. The Congressman from Wadsworth will need a strong tailwind to unseat Senator Brown.

Ohio Supreme Court

The Ohio Supreme Court is comprised of seven Republicans. Two seats are up for grabs in the November General Election.

Republican Judge Craig Baldwin of Canton was unopposed in the primary and will face off in November against Democrat Judge Michael Donnelly of Cleveland. The OMA-PAC has endorsed Judge Baldwin.

Republican Justice Mary DeGenaro of Youngstown is running to retain the seat on the high court she was appointed to fill this past January when Justice O'Neill stepped down to run for governor. Also unopposed in the primary, she will face Judge Melody Stewart this fall. The OMA-PAC has endorsed Justice DeGenaro.

Statewide Offices Races

Currently all statewide offices are held by term-limited Republicans. Most candidates were unopposed. Only the Republican primary for Treasurer was contested. In that race, Robert Sprague battled Sandra O'Brien for Ohio Treasurer of State. Sprague earned the Republican Party endorsement and defeated Sandra O'Brien by a vote of 58% to 42%.

November Match-ups:

Attorney General: Republican Dave Yost vs. Democrat Steve Dettelbach

Auditor: Republican Keith Faber vs. Democrat Zack Space

Secretary of State: Republican Frank LaRose vs. Democrat Kathleen Clyde

Treasurer: Republican Robert Sprague vs. Democrat Rob Richardson

U.S. House of Representatives

Two open seats saw contested primaries.

In the **12th District** in central Ohio: A reliable, though not safe, Republican district, bitter primaries were waged on both Republican and Democrat sides to succeed Pat Tiberi in Congress. The field of ten Republicans was really between two candidates. Troy Balderson, a state senator with heavy backing from traditional Main Street Republicans and Pat Tiberi,

squared off against Freedom Caucus favorite Melanie Leneghan, heavily backed by Congressman Jim Jordan. Democrats too showed intra-party fractures in a seven-way primary. The two favorites were former Franklin County Sheriff Zach Scott and current Franklin County Recorder Danny O'Connor. Democrats will need a wave to retake the 12th with a 57% Republican Index.

Republican Outcome: Troy Balderson bested Leneghan narrowly winning a plurality 29% to Leneghan's 28% second place finish.

Democrat Outcome: Up and comer Danny O'Connor prevailed by taking 41% of the vote.

In the **16th District** in northeast Ohio, Jim Renacci vacated his seat so he could make a run for U.S. Senate. The 16th district is among the safer Republican districts with a 56% Republican Index. The nationally watched race pitted a first time celebrity candidate against a current state representative. Christina Hagan, a well-known Republican state representative in the more rural southern part of the district, faced political newcomer Anthony Gonzalez, a former Ohio State football player who later enjoyed a successful NFL career with the Indianapolis Colts. Gonzalez won the fundraising contest while Hagan doubled down on her Trump connections, even having Anthony Scaramucci headline a fundraiser earlier in the year.

Outcome: The Buckeye football machine was too much to overcome and a first time candidate is heading to the November general after defeating Hagan 53% to 41%.

State Ballot Issues

Issue 1 was approved by voters with 75% voting for the redistricting proposal that sets up a more fair process that is intended to prevent excessive gerrymandering in U.S. Congressional districts.

General Assembly

Ohio House of Representatives: Make no mistake; the race for Speaker's gavel has had ramifications in many contested House Republican primaries. Ohioans saw unprecedented negative campaigning for House seats as onetime Speaker Larry Householder sought to reclaim his old job by recruiting his own slate of Republican candidates to challenge candidates recruited by the House campaign committee. Rep. Ryan Smith, the powerful chair of the Finance Committee, wants the speakership and provided valuable campaign support to incumbents and first-time candidates. Contested seats will determine the majority caucus' choice for Speaker now, and again in 2020. Results appear to favor Householder-endorsed candidates. See below a sampling of the outcomes of the most bitterly fought R primaries:

6th District: OMA-PAC endorsed candidate Michael Canty loses to Jim Trakas by a margin of 57% to 43%.

16th District: OMA-PAC endorsed candidate Dave Greenspan soundly defeats Monique Jonevieve Boyd 88% to 12%.

19th District: Dave Ferguson loses to Tim Barhorst 53% to 39%.

21st District: Attorney Stu Harris pulls off the win 71% to 29% in this district expected to be hotly contested in the fall.

37th District: Mike Razor beat back two opponents to secure the Republican nomination in this northern Summit County district tallying 67% of the vote.

42nd District: Incumbent Niraj Antani battled in a three-way primary but was able to overcome the competition with a 63% majority of the vote.

43rd District: J. Todd Smith knocked off Kenneth Henning 53% to 47%. Smith will need to work hard to keep this seat in Republican hands in the fall.

47th District: Incumbent Derek Merrin easily fends off Barbara Lang 65% to 35%.

50th District: Another tough primary in Stark County, manufacturer and OMA-PAC endorsed candidate Reggie Stoltzfus holds on to defeat Josh Hagan 61% to 39%.

51st District: Incumbent Wes Retherford loses to Sara Carruthers 47% to 32%.

61st District: OMA-PAC endorsed candidate and law school professor John Plecnik was defeated by former State Rep. Jamie Callender 56% to 44%.

62nd District: Incumbent and OMA-PAC endorsed candidate Scott Lipps faced down a primary challenge defeating Daniel Kroger 61% to 39%.

67th District: State Senator Kris Jordan wins the primary for his old House seat earning the majority vote in a three-way primary with 40% of the vote.

72nd District: Former Speaker Larry Householder wins in an expensive primary battle defeating Kevin Black 63% to 37%.

73rd District: In perhaps the most sensationalized primary of the season incumbent Rick Perales defeats Jocelyn Smith 80% to 20%.

80th District: In one of the most expensive primaries this year, Jena Powell emerges from this heated four-way battle to secure the nomination with 50% of the vote.

81st District: Long time legislator and OMA-PAC endorsed candidate Jim Hoops wins handily 66% to 34%.

83rd District: Jon Cross knocked off Cheryl Buckland in yet another hard fought Republican House primary 59% to 41%.

84th District: Susan Manchester defeated Travis Faber in this three-way primary for a safe Republican seat with 37% of the vote.

86th District: Tracey Richardson defeated Matthew Sammons in the Marysville area Republican primary 72% to 28%.

87th District: OMA-PAC endorsed Riordan McClain leads unofficially, winning by fewer than 100 votes over former State Rep. Steve Reinhard and securing 41% of the vote.

90th District: Brian Baldrige emerged victorious in this four-person primary with 40% of the vote.

91st District: Shane Wilkin defeats former Speaker Rosenberger's handpicked successor Beth Ellis 56% to 44%.

98th District: In a five-person slugfest Brett Hillyer was able to unofficially secure the higher vote count with 32% of the vote, leading Shane Gunnoe by a handful of votes.

Ohio State Senate: With no internal leadership battle brewing in the Ohio Senate, primary races were much tamer and lacked the vicious campaigning we saw from their House counterparts. Two Senate seats, the 5th and 13th, will be in play in the fall.

1st District: Senator McColley who was appointed to the chamber in December successfully defended his seat for the first time in a three-way primary securing 62% of the vote.

13th District: State Rep. Nathan Manning prevails getting the Republican nod and 75% of the vote but will have to work to defeat Sharon Sweda in an always hotly contested toss-up district.

Voter Turnout

The unofficial results revealed that Republicans were much more excited to head to the polls yesterday. A total 1.6 million votes were cast across the state. The voter turnout was right at 21%. Republicans cast 147,000 more ballots in the governor's primary race. More and more Ohioans continue to vote early. More than 260,000 early ballots were cast. This is up by 58,000 from the 2014 primary.

You can view the voter turnout maps [here](#) on the Ohio Secretary of State website.



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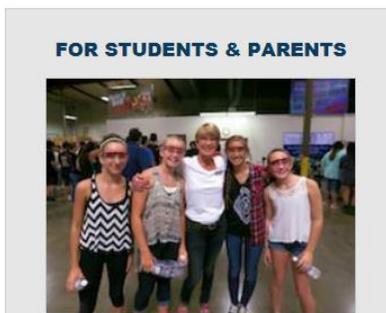
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MFG DAY Resources

Manufacturing Day depends on so many different types of people to make it a success:

- **Hosts**, who open their doors to showcase manufacturing
- **Students and Parents**, who will become and foster the next generation of manufacturers
- **Educators**, who prepare students for careers in manufacturing
- **Sponsors and Endorsers**, who provide the support that makes MFG DAY possible
- **The Media**, who help share the MFG DAY story

Whatever category you fall into, we've prepared resources that can help you make the most of your MFG DAY.



WHAT IS MANUFACTURING DAY?

Manufacturing DaySM is a celebration of modern manufacturing meant to inspire the next generation of manufacturers. Manufacturing Day occurs on the first Friday in October — this year Manufacturing Day is Oct 5, 2018.

While Manufacturing Day is officially Oct. 5, companies and community organizations should plan their events on the date in October that works best for them. No matter the date, events should be registered on the site and can be marked as public or invitation-only events.

Registered event hosts have access to free event planning and execution resources and toolkits to make planning a Manufacturing Day event easy!

[Learn More](#)

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May 21, 2018

The Honorable Kirk Schuring
Speaker Pro Tempore
Ohio House of Representatives
Vern Riffe State Government Center
77 South High Street
Columbus, OH 43215

Dear Representative Schuring and Members of the House of Representatives:

As leaders of Ohio's largest statewide business organizations, we are writing to express our collective concern over the current absence of a Speaker of the Ohio House. As you well know, the void in office of the Speaker is preventing significant policy deliberation and votes on matters important to economic investment, job creation and retention.

Ohio's business climate continues to improve. We have made significant strides, but additional policy priorities are pending in the legislature, including regulatory reform, workforce education and development, tax matters, additional tort measures, and meaningful unemployment compensation reform. Our interest – and we believe that of House members – is that the General Assembly take up the policy issues that will continue to support and improve Ohio's economy and the welfare of its citizens. Without a Speaker – and with the distracting controversy of electing one – we risk timely progress.

We implore members of the House Republican caucus to set aside differences and preferences and focus on the needs of our great state. Specifically, we urge the prompt selection and subsequent election of a capable and principled leader to guide the House through the remainder of the 132nd General Assembly.

We deeply care about the institution – as do you. Our economy depends on a functional House of Representatives working to solve current and future challenges. We look forward to continuing to work with you and wish you success in the selection of Ohio's next Speaker of the Ohio House.

Sincerely,



Roger R. Geiger
Vice President & Executive Director
National Federation of Independent Business, Ohio



Patrick J. Tiberi
President & CEO
Ohio Business Roundtable



Andrew E. Doehrel
President & CEO
Ohio Chamber of Commerce



Adam Sharp
Executive Vice President
Ohio Farm Bureau



Gordon M. Gough
President & CEO
The Ohio Council of Retail Merchants



Eric L. Burkland
President
The Ohio Manufacturers' Association

Editorial: Only one real choice in Ohio House speaker mess

The unprecedented breakdown of leadership in the Ohio House of Representatives is about one thing — serving one member's ambition to be speaker come January — and it's time for it to stop.

Rep. Kirk Schuring, the Canton Republican who is serving as acting speaker of the House, has given members until 5 p.m. Friday to tell him which of two choices they prefer: to vote next week on a speaker to serve out the remainder of the year or to change rules to allow Schuring to continue in the temporary role until a newly constituted House elects a speaker in January.

They should take the vote on the next speaker as soon as possible. There is no legitimate reason to go seven months without an official speaker.

The only reason Schuring or anyone else is talking about avoiding a vote on a speaker is because Rep. Larry Householder, R-Glenford, wants to be speaker but doesn't have the votes now. Householder believes he will have the votes in January, when new members from November's elections are seated, and he doesn't want his rival occupying the seat until then.

Setting aside the unseemly political gamesmanship, Householder is a terrible choice for speaker. He held the job once before, from 2001 to 2004, and quickly earned a reputation for strong-arm fundraising tactics and political bullying.

His own Republican caucus fired his two top aides, Brett Buerck and Kyle Sisk, when details of their unsavory style became public. The FBI investigated allegations that Householder and the two aides engaged in bribery and kickback schemes. The bureau declined to prosecute, but allegations of ethical violations followed Householder to his next elected post as Perry County auditor.

This is not the man to restore dignity and competence to the Ohio House.

Meanwhile, Rep. Ryan Smith, R-Bidwell, well-regarded for policy expertise and ethical character, also wants to be speaker and has the support of at least 47 of the chamber's 65 Republicans. To be elected speaker of the 99-member House, a candidate needs the votes of a majority of those present.

If Schuring would schedule a vote, Smith likely could pick up the additional votes he needs from Democrats or fence-sitting Republicans. Hence the ferocious effort by Householder and his supporters to delay the vote until January when, they hope, more Householder-friendly representatives will take office.

But ordinary voters will have a say in this, too. In November, every House seat will be on the ballot. Voters can do their part to improve the state's future by denying a place in the General Assembly to Householder loyalists. Ohio desperately needs more statesmanship and less powermongering at the Statehouse.

For now, Ohio needs House members — Republicans and Democrats — who will put the people's business before their own political concerns. While some Republicans, including Anne Gonzales of Westerville and Jim Hughes of Upper Arlington, have bucked tradition and not backed the candidate with a plurality of Republican votes, the House has been idle since April 10 and important legislation is going unaddressed.

Nor should Democrats be sitting back enjoying the Republicans' embarrassing dysfunction. They, too, owe the people of Ohio their best effort at governing, and thanks to the Republican Householder holdouts, they can and should play a role in choosing the next speaker. They will have to work with that person — or be run over by him, if the ultimate choice is Householder.

The true options are between a legislator with integrity and a political bully. Any move other than calling for a speaker vote now only improves Householder's chances of regaining power in January. The choice should be clear.

State campaign finance filings shed light on heated Ohio House leadership battle

By Andrew J. Tobias, cleveland.com atobias@cleveland.com

CLEVELAND, Ohio -- The alliances surrounding the heated political battle to become the next leader of the Ohio House of Representatives became clearer on Thursday, thanks the filing of new state campaign finance disclosures.

Two Southeast Ohio Republicans angling to be the next Ohio House Speaker reported raising similar amounts of campaign money through mid-April -- State Rep. Larry Householder, of Perry County, reported raising about \$101,800, while State Rep. Ryan Smith, of Gallia County, reported raising \$93,450.

Observing how the speaker hopefuls dole out their money offers the clearest sign yet of which House candidates may support them. There are a number of contested primaries across Ohio between House candidates believed to be pro-Smith or pro-Householder -- whoever wins could help pick the next leader of the Republican-controlled House after the November election. Many of the candidates have been coy about whom they plan to support and have not come out publicly with their choices.

Householder reported giving out about \$92,500 -- in identical \$7,707.79 contributions -- to 12 different candidates running in contested Republican primary elections. Those candidates are Brian Baldrige, Tim Barhorst, Jamie Callender, Jon Cross, Josh Hagan, Kris Jordan, Derrick Merrin, Jena Powell, Mike Rasor, Tracy Richardson, Jim Trakas and Shane Wilkin.

Meanwhile, the Ohio House Republican Organizing Committee -- which has close ties to Smith -- gave about \$354,200, distributed in varying amounts, to nine candidates running against the Householder-backed candidates. Those candidates are Michael Canty, Gina Hall Collinsworth, Beth Ellis, Dave Ferguson, Shane Gunnoe, Denise Martin, John O'Brien, John Plecnik and Reggie Stoltzfus.

Martin received just \$4,000 -- the rest received at least \$30,000, with Ellis receiving the most at \$62,000. Smith himself gave \$300,000 to OHROC, the campaign arm for Ohio House Republicans.

Other outside donors also gave to House candidates in patterns that generally split down factional lines. Wayne Boich, chairman and CEO of Boich Companies, whose holdings include coal mines, gave out about \$90,600 to nine of the Householder-backed candidates. The political action committee for Murray Energy, another coal-mining company, gave \$28,200 to many of the same candidates. As previously reported by

cleveland.com, a PAC for FirstEnergy, the power-generation company, gave more than \$149,000 to 15 candidates, 11 of whom Householder gave money to.

Meanwhile, Republican House candidates filing Thursday reported at least \$79,700 in contributions from Virginia "Ginni" Ragan, a Columbus-area mega-donor who is close to OHROC and former Republican House Speaker Cliff Rosenberger. Ragan this year overall has given at least \$224,400 to Republican House members -- many of whom also were supported by OHROC.

ACT Ohio -- a group representing the construction trades industry -- also gave tens of thousands of dollars to Householder-backed candidates, as did a political group representing the International Union of Operating Engineers Local 18.

OHROC overall reported raising about \$818,000 -- much of which was raised from incumbent Republican members -- spending about \$1 million and good for \$4.2 million in cash on hand. It raised about \$526,500 following Rosenberger's shocking April 10 resignation as Ohio House speaker amid an FBI probe into a trip he took with lobbyists to London in August 2017. Rosenberger -- who was slated to leave office at the end of the year due to term limits - before resigning appointed a temporary successor, although the long-term leadership of the Republican caucus is unclear. Rosenberger also appointed temporary successors to control OHROC and its funds.

The Ohio House Democratic Caucus, the Democratic equivalent of OHROC, reported raising about \$279,000 and spending \$189,500, good for \$573,100 in cash on hand. Democrats are hoping to pick up at least a half-dozen seats in the Republican-controlled state legislature this year, thanks in part to what many expect will be a favorable political climate.

Campaign finance disclosures filed Thursday do not include spending by organizations that have paid for TV and radio ads and direct mail pieces attacking pro-Householder candidates. Those groups, organized as federal Super PACs with different filing deadlines, are believed to have spent hundreds of thousands of dollars, but have not fully disclosed their spending. One of the groups, called Honor & Principles PAC, earlier this month reported receiving \$175,000 from an anonymous LLC, which it used to fund ads attacking Householder and supporting his primary opponent.

The Republican Senate Campaign Committee, which is not experiencing the same leadership intrigue as its House counterpart, reported raising \$1.2 million and spending about \$593,300, good for \$3.4 million in cash on hand. Ohio Senate Democrats reported raising about \$169,800 and spending about \$148,400, good for \$63,800 in cash on hand.



**Proponent Testimony
Senate Bill 210**

**Ohio Senate Health, Human Services and Medicaid Committee
Senator Dave Burke, Chair**

May 15, 2018

Mr. Chairman, members of the Senate Health, Human Services and Medicaid Committee, my name is Ryan Augsburger and I am vice president and managing director of public policy services at the Ohio Manufacturers' Association (OMA).

Ohio is the nation's third largest manufacturing economy. Within Ohio, manufacturing is responsible for \$108 billion in gross domestic product, far more than any other industry sector.

Representing over 1300 member manufacturing companies, the OMA is pleased to offer support for Senate Bill 210.

Ohio is home to 34 stationary paper manufacturing establishments (ranked #1 nationally), 30 paper board container manufacturing establishments (ranked #2 nationally), and 66 paper bag and coated and treated paper manufacturing establishments (ranked #3 nationally). These manufacturers alone produce nearly \$3 billion in output in the Buckeye State. These same manufacturers employ over 7,500 Ohioans with an average annual wage of \$57,377 according to the Ohio Department of Jobs and Family Services, well above the state average. These are family-sustaining jobs.

These manufacturers supply a large printing sector in our state and they supply packaging products to so many of our state's manufacturers be they food and beverage manufacturers or consumer products or appliances. Additionally, paper manufacturing is number one when it comes to utilizing recycled materials, foster conservation and employing sustainable business practices

Ohio manufacturers make all sorts of world class products. But when local jurisdictions enact restrictions on product content, or on labeling of products, or on taxing of certain products, it makes it very difficult for compliance in today's global economy. As such the OMA routinely advocates to mitigate locally-imposed restrictions or taxes. In many cases these types of regulations are most appropriately adopted at the federal government level so as to not disadvantage businesses in one state over businesses in another state.

For these reasons the OMA favors S.B. 210 to ensure taxes on paper and paper-based packaging be adopted uniformly and not via a cumbersome patchwork of different local regulations and taxes that would disadvantage Ohio as a place to manufacture.

We thank to Senators Coley and Eklund for sponsoring this important legislation to protect and grow Ohio manufacturing. We urge your prompt passage of S.B. 210.

Thank you. That concludes my testimony.



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Emily E. Wendel

Sub. S.B. 220*

132nd General Assembly

(As Reported by S. Gov't Oversight & Reform)

Sens. Hackett and Bacon

BILL SUMMARY

- Creates an affirmative defense to a tort action against a covered entity because of a data breach, if the entity is accused of failing to implement reasonable information security controls and the entity has a cybersecurity program that meets the bill's requirements.

Definitions

- Defines "covered entity" as a business or nonprofit entity, including a financial institution, that accesses, maintains, communicates, or handles personal information or restricted information.
- Provides definitions for "personal information," "restricted information," and "data breach."

Requirements to qualify for the affirmative defense

- Requires a covered entity, in order to be eligible for the affirmative defense, to create, maintain, and comply with a written cybersecurity program that contains certain safeguards for the protection of personal information, restricted information, or both.
- Requires the cybersecurity program to meet the bill's design, scale, and scope requirements and to reasonably comply with an industry recognized cybersecurity framework listed in the bill.

* This analysis was prepared before the report of the Senate Government Oversight and Reform Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Allows a covered entity to have a cybersecurity program that protects personal information and therefore to be entitled to assert an affirmative defense to a cause of action involving a data breach concerning personal information.
- Allows a covered entity instead to have a cybersecurity program that protects both personal information and restricted information and therefore to be entitled to assert an affirmative defense to a cause of action involving a data breach concerning personal information or restricted information.

Other provisions

- Specifies that the bill does not provide a private right of action that would allow a person to sue a covered entity for failing to follow the bill's cybersecurity requirements.
- Specifies that the bill's provisions are severable.
- States that the bill is intended to encourage improved cybersecurity through voluntary action and not to create a minimum cybersecurity standard that must be achieved.

CONTENT AND OPERATION

The bill creates an affirmative defense to any tort action against a covered entity because of a data breach, if the entity is accused of failing to implement reasonable information security controls to prevent the breach. To be eligible to use the affirmative defense, the entity must have a cybersecurity program that meets the bill's requirements. The bill refers to the affirmative defense as a "safe harbor."

(A tort action is a civil lawsuit for a legal wrong or injury, such as negligence, for which the person bringing the lawsuit seeks compensation for damages. An affirmative defense is a factor that, if proven by the defendant, makes the defendant not liable for the damages.)

Definitions

Covered entities

Under the bill, a "covered entity" is a business that accesses, maintains, communicates, or handles personal information or restricted information in or through one or more systems, networks, or services located in or outside Ohio. "Business" means any limited liability company (LLC), limited liability partnership (LLP), corporation, sole proprietorship, association, or other group, however organized and whether

operating for profit or not for profit, including a financial institution organized, chartered, or holding a license authorizing operation under the laws of Ohio, any other state, the United States, or any other country, or the parent or subsidiary of a financial institution.¹

Covered information

Personal information

The bill specifies that "personal information" has the same meaning as in Ohio's Consumer Protection Law. Under that law, personal information means an individual's name, consisting of the individual's first name or first initial and last name, in combination with and linked to any one or more of the following data elements, when the data elements are not encrypted, redacted, or altered by any method or technology to make them unreadable:

- The individual's Social Security number;
- The individual's driver's license or state identification card number;
- The individual's account number or credit or debit card number, in combination with and linked to any required security code, access code, or password that would permit access to the individual's financial account.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or any of the following media that are widely distributed:

- Any news, editorial, or advertising statement published in any bona fide newspaper, journal, or magazine, or broadcast over radio or television;
- Any gathering or furnishing of information or news by any bona fide reporter, correspondent, or news bureau to those news media;
- Any publication designed for and distributed to members of any bona fide association or charitable or fraternal nonprofit corporation;
- Any type of media similar in nature to any of those items, entities, or activities.²

¹ R.C. 1354.01(A) and (B).

² R.C. 1354.01(D). See also R.C. 1349.19(A)(7), not in the bill.



Restricted information

Under the bill, "restricted information" means any information about an individual, other than personal information, that can be used to distinguish or trace the individual's identity or that is linked or linkable to an individual, if the information is not encrypted, redacted, or altered by any method or technology to make it unreadable. ("Encrypted" and "redacted" have the same meanings as in the Consumer Protection Law.)³

For example, if an unencrypted database contained only an individual's residence address, birthdate, and driver's license number, that information would not be considered personal information under the bill because it did not include the person's name, but it probably would be considered restricted information because it would be possible to identify the person based on the information.

Data breach

Under the bill, "data breach" means unauthorized access to and acquisition of computerized data that compromises the security or confidentiality of personal information or restricted information owned or licensed by a person and that causes, reasonably is believed to have caused, or reasonably is believed will cause a material risk of identity theft or other fraud to person or property.

For purposes of that definition, good faith acquisition of personal information or restricted information by an employee or agent of the person for purposes of the person is not a data breach, provided that the information is not used for an unlawful purpose or subject to further unauthorized disclosure. And, acquisition of personal information or restricted information pursuant to a search warrant, subpoena, or other court order, or pursuant to a subpoena, order, or duty of a regulatory state agency, is not a data breach.⁴

Requirements to qualify for the affirmative defense

To be eligible to use the bill's affirmative defense, a covered entity must do one of the following:

(1) Create, maintain, and comply with a written cybersecurity program that contains administrative, technical, and physical safeguards for the protection of *personal information*, that meets the bill's design, scale, and scope requirements, and that

³ R.C. 1354.01(E).

⁴ R.C. 1354.01(C).

reasonably complies with an industry recognized cybersecurity framework listed in the bill;

(2) Create, maintain, and comply with a written cybersecurity program that contains administrative, technical, and physical safeguards for the protection of *both personal information and restricted information*, that meets the bill's design, scale, and scope requirements, and that reasonably complies with an industry recognized cybersecurity framework listed in the bill.

A covered entity that meets the requirements under (1) above is entitled to assert an affirmative defense to any cause of action sounding in tort that is brought under the laws of Ohio or in the courts of Ohio and that alleges that the failure to implement reasonable information security controls resulted in a data breach concerning personal information. A covered entity that meets the requirements under (2) above is entitled to assert an affirmative defense to any such cause of action involving a data breach concerning personal information or restricted information.⁵

Cybersecurity program requirements

The bill requires a covered entity's cybersecurity program to be designed to do all of the following with respect to the information it is meant to protect:⁶

- Protect the security and confidentiality of the information;
- Protect against any anticipated threats or hazards to the security or integrity of the information;
- Protect against unauthorized access to and acquisition of the information that is likely to result in a material risk of identity theft or other fraud to the individual to whom the information relates.

The scale and scope of a covered entity's cybersecurity program is considered appropriate if it is based on all of the following factors:⁷

- The entity's size and complexity of the covered entity;
- The nature and scope of the entity's activities;
- The sensitivity of the information to be protected;

⁵ R.C. 1354.02(A) and (D).

⁶ R.C. 1354.02(B).

⁷ R.C. 1354.02(C).

- The cost and availability of tools to improve information security and reduce vulnerabilities;
- The resources available to the covered entity.

Approved cybersecurity frameworks

Under the bill, a covered entity's cybersecurity program also must reasonably comply with an industry recognized cybersecurity framework. The program meets that requirement if one of the following apply:⁸

- The program reasonably complies with the current version of any of the following or any combination of the following frameworks:
 - The Framework for Improving Critical Infrastructure Cybersecurity developed by the National Institute of Standards and Technology (NIST);
 - NIST Special Publication 800-171;
 - NIST Special Publications 800-53 and 800-53a;
 - The Federal Risk and Authorization Management Program (FedRAMP) Security Assessment Framework;
 - The Center for Internet Security Critical Security Controls for Effective Cyber Defense;
 - The International Organization for Standardization/International Electrotechnical Commission 27000 Family – Information Security Management Systems.
- The program reasonably complies with both the current version of the Payment Card Industry (PCI) Data Security Standard and the current version of another applicable framework listed above.
- The covered entity is regulated by the state, by the federal government, or both, and the program reasonably complies with the entirety of the current version of any of the following:⁹

⁸ R.C. 1354.01(E) and 1354.03(A).

⁹ R.C. 1354.03(B).

- The security requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), which governs healthcare;
- Title V of the federal Gramm-Leach-Bliley Act of 1999, which applies to financial institutions;
- The Federal Information Security Modernization Act of 2014, which generally covers federal agencies.

When a final revision to a cybersecurity framework in the first list above is published, a covered entity whose cybersecurity program reasonably complies with that framework must reasonably comply with the revised framework not later than one year after the publication date stated in the revision. And, when a statutory framework in the second list above is amended, a covered entity whose cybersecurity program reasonably complies with that framework must reasonably comply with the amended framework not later than one year after the effective date of the amended framework.

Finally, if a covered entity's cybersecurity program reasonably complies with a combination of industry recognized cybersecurity frameworks, other than the statutory frameworks in the second list above, and two or more of those frameworks are revised, the entity must reasonably comply with all of the revised frameworks not later than one year after the latest publication date stated in the revisions.¹⁰

Other provisions

No private right of action

The bill specifies that it does not provide a private right of action, including a class action, with respect to any act or practice regulated under the bill. In other words, the bill does not allow a person to sue a covered entity for failing to follow the bill's cybersecurity requirements, unless another law would allow the person to do so.¹¹

Severability

The bill specifies that if any of its provisions or the application of those provisions to a covered entity is ruled invalid, the remainder of those provisions and

¹⁰ R.C. 1354.02(D).

¹¹ R.C. 1354.04.

their application to other entities is not affected. (The Revised Code provides generally that this principle of severability applies to all Ohio statutes.)¹²

Legislative intent

The bill states that its purpose is to establish a legal safe harbor to be pled as an affirmative defense, as described above. It also states that the bill is intended to be an incentive and to encourage businesses to achieve a higher level of cybersecurity through voluntary action. It does not, and is not intended to, create a minimum cybersecurity standard that must be achieved, nor may it be read to impose liability upon businesses that do not obtain or maintain practices in compliance with the bill.¹³

HISTORY

ACTION	DATE
Introduced	10-17-17
Reported, S. Gov't Oversight & Reform	---

S0220-RS-132.docx/ec

¹² R.C. 1354.05. See also R.C. 1.50, not in the bill.

¹³ Section 2 of the bill.





Role of the Regional Public Affairs Directors

The role of the NAM's Public Affairs & Mobilization Department is to maximize the manufacturing industry's impact on federal issues, and to employ best practices and cutting-edge tactics to advance advocacy goals. That is why the NAM hired a series of district-based political operatives – Regional Public Affairs Directors, or RPADs – to complement our work here in Washington, and build out a community of manufacturing advocates who will help to champion our policy priorities.

The RPADs are responsible for building a base of supporters in states and districts to which they are assigned. This base of supporters extends into other stakeholders and manufacturing activists who can help move Washington policymakers, but it also consists of NAM member companies and their employees. The Regional Public Affairs Directors must work hand-in-hand with other NAM staff across different departments to convey the importance of manufacturing to America's economy, and why that matters to Americans beyond the shop floor.

The NAM's small and medium-sized manufacturers (SMMs) represent a "sweet spot" for engagement on this project. These companies typically lack full-time government relations and public affairs support and represent those companies for which the RPADs – and their ability to recruit members of Congress to visit a facility – serves as a distinct member benefit. Moreover, these companies serve as a font for information and vivid stories about how policy decisions in Washington affect the broad swath of manufacturing businesses. The Regional Public Affairs Directors can essentially serve as these companies' political consultant, helping them to unearth these stories and amplify them back to Washington in an especially resonant way.

This is a new role for NAM and the only way for the Regional Public Affairs Directors to be successful is to work closely with other staff. They will be able to build ground-level political intelligence to communicate back to GR, Policy, Comms and most importantly our Membership teams, and to serve as a force multiplier in key districts and regions identified by NAM HQ.

They will be transparent, supportive and provide resources that do not duplicate current roles. With the entire organization's support, they will help to maximize results, build an advocate network and ultimately assist in providing a better overall service experience to our membership.

Types of Public Affair and Mobilization Events

Any event put together by PA&M will be designed to provide the greatest possible ROI for all parties involved. An important element will be the RPADs' ability to organize events that meet the unique needs of the NAM's member companies. The following events serve as a starting point and template for how to best serve our members.

A few key points to be aware of for all events:

- *Relevant Association Members must be informed of any events once we move past the initial planning process*
- *If facilities outside of our target RPAD states (MI, WI, IL, OH, PA, VA, NC, SC) would like to do an event we will try to accommodate them if possible. Either through SAG or RPAD as lead.*
- *Congressional Dialogue Tour events contain multiple parts, such as the tour, employee town hall and roundtable, but can pull from any of the below aspects*
- *Each of these events can (but is not required to) have federal legislators in attendance.*
- *Press (If needed)- NAM will help provide local press coverage, social media outreach, etc. to highlight the visit and elevate member with earned media push. Comms and PA&M would take lead. This could include but not limited to Social Media, Op-Eds, press releases, local newspapers/television, Friends of Manufacturing, State Association Group channels, blogs, ect.*
- *Majority of these events have been set around Tax Reform, however the issues can be modified based on what makes the most sense to the member company and any legislators involved.*

Types of Events

Facility Tour

- 30-60 minutes with limited/no press
- Primarily used for b-roll footage and for larger media involvement
- Allows legislators to have true 1-1 experience with these sites and a better understanding of the skilled labor they require

Roundtable

- Invite 6-12 local leaders to discuss manufacturing policy positions and general issues
- Objective is oriented toward earned media coverage involving larger stories or issues
- Opportunity for participants to truly distill topics of importance with them in a controlled forum

Local Townhall

- Local leaders in public setting, responding to questions from local stakeholders
- Covers local and federal issues
- Townhalls give the audience and community the largest voice to opine about what matters most to them

Employee Townhall

- Town hall meeting featuring manufacturing employees asking questions of guest elected officials or other designated guests
- Typically executed at the conclusion of a facility tour and create a more controlled environment for issue that matter most to employees rather than general population

Influencer Panel

- 3-5 local leaders discuss federal issues and policy positions to a public audience, yet moderated
- This is a slightly more controlled format than a townhall but does leave limited opportunity for audience questions if desired
- Opportunity for influencers to discuss what is most important to them and make strong points in support of their positions

Award Ceremonies

- Would generally follow any of the above events
- Legislators would be considered based on their voting records and past actions that resulted in a positive outcome for manufacturing

Congressional Dialogue Series

- Larger scale events that combine 2-3 of the above events
- NAM staff work with congressional offices to set schedule, dates, times, ect.
- Typically, the largest scale event which draws the most attention and provides the largest lift

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Policy Report
Date: June 6, 2018

Overview

Significant energy policy activity has occurred over the past quarter with the bankruptcy filing by FirstEnergy Solutions and the Trump Administration action of the past few days to subsidize unprofitable nuclear power plants. Ongoing state legislative and regulatory subsidy proposals has been eclipsed and stalled in part due to the Speaker of the House vacancy. The OMA has been active in all three theaters. The OMA continues to advocate for needed PUCO reform legislation sponsored by State Representative Mark Romanchuk (R-Mansfield).

Trump Administration Orders Subsidies to Benefit Former FirstEnergy Power Plants

For the past year, FirstEnergy together with some coal interests have been busy lobbying the federal government for nuclear and certain coal power plant bailouts. Earlier this year the Federal Energy Regulatory Committee (FERC) rejected a rule proposal by the Department of Energy that would have subsidized certain base-load power plants including nukes.

On Friday, June 1 a Department of Energy draft order became public signaling that the Trump Administration will order subsidies under the guise of “national security.” Grid operator PJM Interconnect has been clear to dispel the myths of fuel diversity and electric supply shortages.

Questions abound about how the federal ruling will be implemented, but it marks an unwise government intrusion into a functioning market. Expect a protracted legal battle to follow. If the order is ultimately enacted, customers can expect to pay a new rider to subsidize the power plants. See separate memo by OMA Energy Counsel Kim Bojko.

FirstEnergy Solutions Files Bankruptcy

FirstEnergy’s (FE) affiliate corporation, FirstEnergy Solutions (FES) that owned the power plants has been underwater for some time. Hence they sought government bailout. As was expected, FES filed for bankruptcy protection in March. The company also notified regulators of intent to shutter the power plants in a few years. The companies used the bankruptcy and plant closure announcements to leverage political support for state and federal bailouts.

In the months since, a settlement between the stakeholders has been proposed. Among the bankruptcy settlement provisions is an agreement by FES to significantly compensate FE for any subsidies won as a result lobbying. See included summary by OMA Energy Counsel Kim Bojko.

Federal Tax Reform Driving Down Electric Prices, But Not in Ohio

Following passage of the sweeping federal tax reform, electric distribution utilities (EDUs) in many states promptly announced they would be passing the tax windfall savings on to customers. In contrast Ohio EDU’s immediately announced they would NOT follow suit. The OMA has been a vocal critic of the move at both the PUCO. We are pleased that Ohio EDU’s seem to now be moving to pass along the savings.

Protecting Competitive Electric Markets

In 1999, with the passage of Senate Bill 3, Ohio began a transition to deregulated generation. That transition which has taken over a decade, has delivered customer choice, cost-savings and

innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. “Stranded costs” and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohioans for a second time. If approved in some form, the subsidy cases and Nuke bailout legislation would represent yet another above-market payment to utilities by customers who realize no benefit.

The OMA has been a proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in new above-market charges on manufacturers.

Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability (ask staff for the studies). The opportunity to advance legislative reform to protect competitive markets has arrived. The OMA has been working with other customer groups to support House Bill 247 introduced by Representative of Mark Romanchuk from the Mansfield area.

Manufacturers can engage policymakers and support a campaign to support the reform. Please contact OMA staff to learn how you can support the cause.

OVEC Bailout

Companion legislation is pending both the House and Senate since last May but has not yet advanced. HB 239 is sponsored by Representatives Ryan Smith and Rick Carfagna, while SB 155 is sponsored by Senators Lou Terhar and Bob Peterson.

The legislation provides over one hundred million dollars per year to the owners of aging coal plants (one in Ohio and one in Indiana) operated by the Ohio Valley Electric Corporation (OVEC). The bailout subsidies would be added to customer bills until 2030 and sets up the possibility for continued customer payment after 2030.

The OMA opposes this bailout that will impose new above-market customer charges. OMA Energy Counsel Kim Bojko provided opponent testimony in the Senate early this year. No movement so far. Adding to the intrigue, FirstEnergy Solutions was allowed to exit their ownership of OVEC as a result of their bankruptcy. The move puts more pressure on remaining owners such as AEP.

Zero Emissions Credit (ZEC) STILL = Nuke Bailout

After being panned by dozens of important stakeholders, legislation to subsidize the uneconomical nuclear power plants stalled out over the summer. During the autumn, House Bill 381 was introduced by Representative Anthony DeVitis of Summit County and several other bipartisan co-sponsors. Similar legislation in the Senate has been amended to mirror the new House Bill. The OMA strongly opposes the legislation and is working with other opponents to coordinate advocacy. Community activists are now leading the charge to prevent the plants from closing and together with FirstEnergy. Recently, the FES bankruptcy and threat of plant closures is being used to lever legislative action.

To Levy kWh Tax On-Site Generation: HB 143

The Ohio Department of Taxation is sending out tax bills to third parties operating on-site generation, be it wind, solar or onsite gas generation. The Department contends that a customer who generates power should pay generation tax same as a utility. The Department’s basis for collecting the tax is tenuous at best. House Bill 143 has been introduced by state representative Robert Sprague of Findlay. The OMA presented proponent testimony this quarter.

OMA Appeals Utility Subsidies

Late last year the OMA Energy Group (OMAEG) filed appeals at the Supreme Court of Ohio challenging customer charges in the FirstEnergy ESP case and in the AEP ESP case. In both cases, the PUCO granted the utilities improper customer charges. These are big ticket cost items for energy-intensive customers. Appeals are still pending.

Energy Standards Legislation

The last time the General Assembly sent a bill to Governor Kasich that would weaken alternative energy standards, the Governor vetoed the bill. Early in the current legislative session, the Ohio House introduced HB 114 and subsequently approved the measure with over 50 co-sponsors.

Senate President Obhof has commented frequently that HB 114 was a priority for Senate action early in 2018. Weeks ago the Senate revised the bill and tacked on provisions to relax wind turbine siting requirements. The revised bill is a mixed bag for manufacturers but includes an opt-out. See bill summary following by OMA Energy Engineering firm Runner Stone.

Re-Monopolization

AEP and other investor-owned utilities have been calling for legislation to *re-monopolize* aspects of utility-owned generation. In spite of assurances made to investors that legislation would be introduced during the term, no such bill has been introduced. Meanwhile utilities are seeking to own certain alternative energy generation. As a state that deregulated generation, the OMA takes a dim view of proposals that provide utility control over any form generation.

Natural Gas Infrastructure

The OMA continues to express industry support for the Rover Pipeline and Nexus Pipeline. Billions of dollars of pipeline investment are underway by several different developers. The OMA has been working with the NAM to promote gas infrastructure and increased market utilization. Please contact staff to learn more about opportunities for supportive manufacturers to engage.

Energy

Rover Pipeline Gets Phase 2 Go-Ahead from FERC

May 11, 2018

Oil & Gas Journal **recently reported:** “FERC granted Rover permission to place a segment of Phase 2, which included Mainline Compressor Station 3 in Crawford County, Ohio, and a section of the line between Mainline Compressor Station 2, in Wayne County, Ohio, and Mainline Compressor Station 3, in service for additional throughput. FERC’s approval allows for the full commercial operation capability of the Market Zone North Segment.

“Phase 1 of the project was also placed into service in segments, with the first portion going into service Aug. 31, 2017, and the remaining segment of Phase 1 going into service in December of 2017. Since December 2017, Rover has been capable of transporting up to 1.7 bcf/d of natural gas.

“Rover will transport natural gas from the Marcellus and Utica shale production areas to markets across the US as well as into the Union Gas Dawn Storage Hub in Ontario.”

As a member of the Coalition for the Expansion of Pipeline Infrastructure (CEPI), a partnership of businesses, trade associations and labor groups that support the responsible expansion of critical energy infrastructure across Ohio and the region, OMA applauds this FERC action. 5/9/2018

FE to Get Bonus for Bankrupt Subsidiary?

May 4, 2018

In recent weeks, investors, analysts, policymakers, media and other stakeholders have been combing through the FirstEnergy Solutions (FES) bankruptcy settlement with creditors and former parent corporation, FirstEnergy (FE). One provision of interest allows FirstEnergy to participate in 50-50 sharing of federal or state bailout revenues.

An analysis by Bank of America Merrill Lynch states that: “This was framed as a way to reward FirstEnergy for any success with legislation and keep FirstEnergy management incentivized to remain involved in those efforts.”

Under that term sheet, FE has up to three years after the bankruptcy to exercise the warrant that entitles it to 50% of recoveries after FES’s unsecured creditors recover 60% of their claims.

Bottom line: FirstEnergy has a vested interest in federal or state bailouts and will continue lobbying federal and state officials for policies that will disrupt and distort a well-functioning market, even though it is no longer in the generation market. 5/3/2018

AEP Electric Rate Cases Finalized

May 4, 2018

Last week the PUCO **approved a settlement** reached on a series of AEP rate cases. The **OMA Energy Group** was involved in settlement discussions and improved the cost impacts on the manufacturing sector. However, there were numerous moving parts including some provisions that will hike customer costs. The settlement specifically confirms the OMA’s ability to challenge AEP’s new rider that customers must pay to bailout the unprofitable large coal power plants known as Ohio Valley Electric Corporation (OVEC).

OMA’s energy counsel, Kim Bojko of Carpenter Lipps & Leland, will explain the case impacts, as well as other PUCO cases of interest to manufacturers, at the May 16 meeting of the OMA Energy Committee. **Register here.** Contact OMA’s **Ryan Augsburger** if you would like more information. 5/3/2018

Congratulations Energy Efficiency Champions!

April 27, 2018



Representatives from American Fine Sinter Company, Tiffin, with AEP Ohio leadership



Pictured with AEP Ohio leadership are Weastec, Inc. President Yasuhiko "Nick" Ida and Senior Manager Robert Moots. Weastec is in Hillsboro.

AEP Ohio recognized several power customers who have made outstanding contributions to increasing energy efficiency and environmental stewardship.

Abbott Nutrition, American Fine Sinter, General Mills, Glatfelter and Weastec were among the manufacturers awarded the AEP Energy Efficiency Champion Award this week.

Learn more about how your company can decrease energy usage, increase efficiency and save money. 4/26/2018

FirstEnergy Profits Up, Announces Settlement with Bankrupt Affiliate **April 27, 2018**

Free of the drag of its unprofitable generation business, FirstEnergy Solutions (FES), FirstEnergy reported a healthy profit of \$1.2 billion for the first quarter.

John Funk of the Cleveland Plain Dealer **reported** that much of the profitability stems from an accounting gain related to the decision for subsidiary FirstEnergy Solutions file bankruptcy protection on March 31, the last day of the quarter.

Also, during the investor call, FirstEnergy's CEO announced that a settlement between FES and its creditors had been reached which will release FirstEnergy from all claims. Here's **an analysis** of the bankruptcy settlement prepared by Carpenter Lipps & Leland.

Meanwhile, FirstEnergy, FES, some coal interests, and community leaders in the footprint of the power plants continue to press federal

and state officials about the need for a bailout. FES took steps late this week to certify its plans to close its Ohio nuclear power plants. In a **letter to the Nuclear Regulatory Commission**, FES Generation informed the agency that the Davis-Besse plant near Toledo will close on May 31, 2020 and the Perry plant in Lake County will close on May 31, 2021. 4/26/2018

AEP Reports Profits, Plans Grid Upgrades **April 27, 2018**

At its annual meeting this week, Columbus-based American Electric Power (AEP) reported first-quarter 2018 corporate earnings of \$454 million.

AEP's Chairman and CEO Nick Akins used the occasion to announce plans to invest more than \$17 billion in transmission and distribution upgrades. While AEP serves customers in many states, AEP's Ohio customers have seen dramatic rises in both distribution and transmission portions of their bills without corresponding benefits.

Members of the OMA Energy Group will be monitoring case activity at the PUCO and FERC to ensure grid investments are necessary and produce customer benefits. **Learn more about the work and benefits of the OMA Energy Group.** 4/26/2018

FirstEnergy PAC Picking Sides in Speaker's Contest **April 27, 2018**

FirstEnergy has used its PAC to promote Rep. Larry Householder in his bid for speaker vs. Rep. Ryan Smith.

A **report by Cleveland.com** illuminates how the utility's PAC has invested in House candidates recruited by Householder: "In the first two months of 2018, the Akron-based power company's political action committee donated more than \$5,000 to the Perry County Republican and a total of about \$149,000 to more than a dozen other House candidates, state campaign finance records show. Most, if not all, of the recipients have either backed Householder for speaker or are considered by many to be on his side, although some have not come out publicly in support of him." 4/26/2018

OMA Sustainability Peer Network Tours
Orrville Plants
April 23, 2018



*The OMA's Sustainability Peer Network tours
The J.M. Smucker Company Grind2Energy
installation.*



*Here, the OMA's Sustainability Peer Network
views the CNG compressor at SmithFoods Inc.,
Orrville.*

This week the **OMA's Sustainability Peer Network** members had the opportunity to tour two OMA member facilities in Orrville: The J.M. Smucker Company and SmithFoods Inc. Projects showcased included SmithFoods' natural gas fleet fueling station and the J.M. Smucker Company's Grind2Energy food waste recycling system and its green-designed R&D building.

Participants were also treated to a lunch prepared by the Smucker Company chef that featured foods from both companies plus local and sustainably managed foods.

To help OMA members network, learn, and share about sustainability goals, practices, and projects, the OMA created the Sustainability Peer Network. **You can join here.** The next meeting will be at the OMA offices on Tuesday, June 19. *4/19/2018*

What Does FES Bankruptcy Really Mean to You?
April 13, 2018

From this month's OMA Energy Guide INSIGHTS regarding the recently announced bankruptcy of First Energy Solutions (FES):

"No one would have predicted a few years ago that the very same company fighting our policy makers for the opportunity to live or die by the market through electric deregulation would be the same company succumbing to Chapter 11 bankruptcy restructuring, mainly due to the effects of an open market.

"The company which once had the largest market share of electric-shopping customers in Ohio has been lobbying everyone, even President Trump, for a life preserver to keep its high-cost power plants operating.

"When one hears about a perceived utility going bankrupt most immediately think "Get out the candles, honey, the power is going out" but what are the real impacts of this bankruptcy on Ohio's people, policy and the price we pay for power?"

Read more. And, subscribe to Energy Guide INSIGHTS, a monthly blog about energy purchasing and management at **My OMA**. *4/11/2018*

NAM Announces Sustainability Program
April 13, 2018

This week, the U.S. Department of Energy (DOE) and the National Association of Manufacturers (NAM) announced the **Sustainability in Manufacturing Partnership**. Through this partnership fostered by DOE's Better Plants program, DOE and the NAM will work together to help U.S. manufacturers drive energy productivity improvements and accelerate adoption of energy efficient technologies.

The Sustainability in Manufacturing Partnership will provide DOE and the NAM opportunities to engage directly with manufacturers, identify energy efficiency improvements, and recognize companies and leaders that have led the way in innovative strategies. *4/10/2018*

FirstEnergy Affiliates File for Bankruptcy
April 6, 2018

The FirstEnergy affiliate companies that own and operate power generation, that is, FirstEnergy Solutions (FES), as well as its subsidiaries and FirstEnergy Nuclear Operating Company (FENOC), filed for Chapter 11 bankruptcy protection over the holiday weekend.

Days earlier the company had publicly announced its intent to shutter unprofitable power plants, most notably its nuclear power plants, two of which are in Ohio.

Officials of the regional grid operator PJM Interconnection, as well as the PUCO, **said that** in spite of the announced power plant shutdowns, this is not an issue of reliability and that there is no immediate emergency because the market is working to provide more than adequate reserves and to promote fuel diversity. In its announcements, FES, like its parent company previously, said it will continue to seek legislative and regulatory relief at the state and federal level. In that vein, FirstEnergy supporters have reportedly been meeting with top federal government officials to push for an emergency order to compensate certain FES-owned power plants at customer expense. PJM refuted the justification advanced by FES in this **letter to Department of Energy Secretary Rick Perry**. In the last 45 days, **two congressional joint letters** signed by 23 members of Congress and three U.S. Senators have urged the president to subsidize the FES power plants. Most of Ohio's Congressional delegation are among the signatories.

Concerned members can **contact their member of Congress** and ask them to reconsider their support for bailouts. *4/5/2018*

OMA Can Help FES Customers Review
Options in Face of FES Bankruptcy
April 6, 2018

On March 31, 2018, FirstEnergy Solutions (FES) filed for bankruptcy. While the company has stated it will continue to serve customers, OMA members taking generation supply service from FES may wonder how this affects them and if they have alternative options.

OMA has made arrangements with its energy supply partner, **Scioto Energy**, to help members review their FES agreements and analyze if it is economically better to ride out the FES agreement or to go with a lower rate from a different supplier.

If the economics indicate savings by moving to another supplier, Scioto Energy will assist with transition details.

The process produces quick information so members can then develop a strategy to mitigate risk and maximize savings.

If interested, contact Susanne Buckley, Managing Partner, Scioto Energy, **via email** or by phone at (614) 888-8805, ext. 104. If you have questions about any of this, please email OMA's **Ryan Augsburg**. *4/5/2018*

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on June 4, 2018

- HB105 OIL AND GAS FUNDING LIMIT** (CERA J, HILL B) To limit the amount of revenue that may be credited to the Oil and Gas Well Fund and to allocate funds in excess of that amount to local governments, fire departments, and a grant program to encourage compressed natural gas as a motor vehicle fuel.
Current Status: 5/16/2017 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-105>
- HB114 RENEWABLE ENERGY STANDARDS** (BLESSING III L) To modify requirements for renewable energy and energy efficiency, to permit mercantile customers to opt out of utility plans for energy efficiency and peak demand reduction, and to modify requirements for wind projects and wind farms.
Current Status: 6/6/2018 - Senate Energy and Natural Resources, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-114>
- HB143 ELECTRIC DISTRIBUTION COMPANY DEFINITION** (SPRAGUE R) To clarify the definition of "electric distribution company" for kilowatt-hour tax purposes.
Current Status: 5/22/2018 - House Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-143>
- HB178 ZERO-EMISSIONS NUCLEAR PROGRAM** (DEVITIS A) Regarding the zero-emissions nuclear resource program.
Current Status: 5/16/2017 - House Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-178>
- HB225 ABANDONED WELL REGULATION** (THOMPSON A) To allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well.
Current Status: 5/23/2018 - **PASSED BY SENATE**; Vote 32-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-225>
- HB239 ELECTRIC UTILITIES-NATIONAL SECURITY RESOURCE** (SMITH R, CARFAGNA R) To allow electric distribution utilities to recover costs for a national security generation resource.
Current Status: 6/7/2018 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-239>
- HB247 ELECTRIC UTILITY CONSUMER PROTECTION** (ROMANCHUK M) To require refunds to utility customers who have been improperly charged, to eliminate electric security plans and require all electric standard service offers to be delivered through market-rate offers, and to

strengthen corporate separation requirements.

Current Status: 1/23/2018 - House Public Utilities, (Sixth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-247>

- HB249 RESIDENTIAL UTILITY RESELLING (DUFFEY M)** To permit the Public Utilities Commission to adopt rules governing residential utility reselling.
Current Status: 5/22/2018 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-249>
- HB381 ZERO-EMISSIONS NUCLEAR RESOURCE (DEVITIS A)** Regarding the zero-emissions nuclear resource program.
Current Status: 12/12/2017 - House Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-381>
- HB393 OIL AND GAS BRINE SALES (DEVITIS A, O'BRIEN M)** To authorize a person to sell brine derived from an oil and gas operation that is processed as a commodity for use in surface application in deicing, dust suppression, and other applications.
Current Status: 5/15/2018 - **REPORTED OUT AS AMENDED**, House Energy and Natural Resources, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-393>
- HB473 CREDIT LOCAL GOVERNMENT FUND-POWER PLANTS (YOUNG R)** To credit additional amounts to the Local Government Fund to provide for payment to fire districts that experienced a 30% or more decrease in the taxable value of power plants located in the districts between 2016 and 2017 and to increase the appropriation to the Local Government Fund.
Current Status: 1/30/2018 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-473>
- HB562 HORIZONTAL DRILLING-PARKS (LELAND D)** To prohibit the drilling of a horizontal well in various state and local parks
Current Status: 4/10/2018 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-562>
- HB578 INJECTION WELL SETBACKS/FEES (HOLMES G, O'BRIEN M)** To establish new setback requirements applicable to new Class II injection wells and to require thirty-seven and one-half per cent of the out-of-district injection well fee to be paid directly to the municipal corporation or township in which the injection well is located.
Current Status: 4/10/2018 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-578>
- HB604 WIND FARM SETBACKS (STRAHORN F)** To alter the minimum setback requirement for

wind farms of five or more megawatts and to make the authorization of qualified energy project property tax exemptions permanent.

Current Status: 5/22/2018 - House Public Utilities, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-604>

HCR14 **PARIS CLIMATE AGREEMENT COMMITMENT** (LEPORE-HAGAN M, LELAND D) To affirm the commitment of the members of the General Assembly, in accordance with the aims of the Paris Agreement, to reduce greenhouse gas emissions to 26 to 28 per cent below 2005 levels by the year 2025.

Current Status: 9/19/2017 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-14>

HCR22 **SUPPORT ENERGY INFRASTRUCTURE** (HILL B) To express support for the importance of Ohio's energy resources and energy infrastructure in furthering Ohio's economic development.

Current Status: 4/10/2018 - **REPORTED OUT**, House Energy and Natural Resources, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-22>

HR277 **ENERGY GRID RULEMAKING** (ARNDT S) To express support for the proposed rulemaking by United States Secretary of Energy Rick Perry for the preservation of a secure, resilient and reliable electric grid.

Current Status: 10/17/2017 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-277>

SB50 **WELL INJECTION-PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-50>

SB53 **NATURAL GAS RESTRICTION** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-53>

SB65 **ENERGY STAR TAX HOLIDAY** (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65>

- SB128** **ZERO-EMISSION NUCLEAR PROGRAM** (EKLUND J, LAROSE F) Regarding the zero-emissions nuclear resource program.
Current Status: 1/25/2018 - Senate Public Utilities, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-128>
- SB155** **ELECTRIC DISTRIBUTION COST RECOVERY** (TERHAR L, PETERSON B) To allow electric distribution utilities to recover costs for a national security generation resource.
Current Status: 1/10/2018 - Senate Public Utilities, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-155>
- SB157** **PUBLIC UTILITY RESELLING REGULATION** (BACON K) To regulate the reselling of public utility service.
Current Status: 1/18/2018 - **SUBSTITUTE BILL ACCEPTED**, Senate Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-157>
- SB188** **WIND TURBINE SETBACK REVISIONS** (HITE C) To revise wind turbine setback provisions for economically significant wind farms.
Current Status: 10/11/2017 - Senate Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-188>
- SB238** **WIND TURBINE SETBACKS** (DOLAN M) Regarding wind turbine setbacks for wind farms of at least five megawatts.
Current Status: 1/10/2018 - **BILL AMENDED**, Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-238>
- SCR14** **COUNTER OPEC MARKET MANIPULATION** (HOAGLAND F, COLEY W) To urge the Congress of the United States and the President of the United States to take certain actions to counter manipulation of the oil market by the Organization of Petroleum Exporting Countries (OPEC).
Current Status: 12/4/2017 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SCR-14>
- SCR21** **APPALACHIAN STORAGE HUB DEVELOPMENT** (BALDERSON T) To urge the Congress of the United States to enact various bills advancing the development of an Appalachian storage hub.
Current Status: 6/7/2018 - Senate Public Utilities, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SCR-21>

FIRSTENERGY'S ROAD TO NOWHERE

Our country is on a road to more affordable, reliable and clean energy – but FirstEnergy is trying to divert us in the wrong direction.

In 2016 it proposed a program to state regulators to support aging coal and nuclear facilities. FERC pulled the plug just one month later

Source: http://www.cleveland.com/business/index.ssf/2016/04/ferc_rejects_puco_approval_of.html



FirstEnergy has spent years seeking a bailout in Ohio, asking customers to subsidize its uneconomic power plants

FirstEnergy's Distribution Modernization subsidy came into effect in July 2017, costing Ohioans \$204 million per year

Source: <https://states.aarp.org/aarp-strongly-opposes-first-energy-nuclear-bailout-bill/>



The business also proposed a plan to keep some of its nuclear plants in commission. After the idea was rejected, it set its sights on Washington, D.C.

Source: http://www.cleveland.com/business/index.ssf/2017/08/firstenergy_power_plant_trouble.html



In September, the DOE asked FERC to subsidize power plants that keep a 90-day fuel supply onsite. Only coal and nuclear plants would qualify

In January 2018, FERC unanimously rejected the plan, ruling that the existing pricing structure is not "unjust, unreasonable, unduly discriminatory or preferential."

Source: <https://www.ferc.gov/media/news-releases/2018/2018-1/01-08-18.asp#WvHT7aQvypq>



FirstEnergy Solutions filed for bankruptcy in March, asking the Administration to use emergency powers under Section 202 (c) of the Federal Power Act to keep its plants open

Source: <https://www.utilitydive.com/news/firstenergy-solutions-files-for-bankruptcy-after-pushing-for-doe-emergency/520371/>

The regional grid operator rejected the claim: "Without reservation there is no immediate threat to system reliability"

Source: PJM response letter to FES 202c request

Eventually Secretary Perry conceded that "the 202(c) may not be the way that we decide that is the most appropriate"

Source: <https://www.eenews.net/eenewspm/stories/1060078533/>



Urged by Senator Joe Manchin, President Trump is reportedly considering using the Defense Production Act of 1950 to subsidize aging facilities

Source: <https://www.manchin.senate.gov/newsroom/press-releases/manchin-urges-president-trump-to-invoke-defense-production-act-to-save-coal-fired-plants-and-further-secure-our-nations-security>



The law is meant to ensure the U.S. has critical resources during emergencies

Source: <https://www.eenews.net/stories/1060079651/print>

In April, FirstEnergy reported Q1 earnings of \$1.2 billion, compared with \$205 million in 2017



FirstEnergy is trying to find any way to save its plants. But these aging and uneconomic facilities are on a road to closure, no matter what bailouts are proposed.



FOR IMMEDIATE RELEASE

Friday, March 30, 2018

Eric Burkland, OMA (614) 224-5111

Roger Geiger, NFIB/Ohio (614) 221-4107

Ohio business groups respond to announced closure of nuclear power plants

Columbus, OH – The Ohio Manufacturers' Association (OMA) and the National Federation of Independent Business/Ohio (NFIB/Ohio) today responded to the announced closure of three nuclear power plants by First Energy Solutions (FES).

On Wednesday, March 28, FES announced it intends to deactivate three nuclear power plants over the next three years — Davis-Besse Nuclear Power Station and Perry Nuclear Power Plant in Ohio, and Beaver Valley Power Station in Pennsylvania.

FES has been unsuccessful in convincing Ohio lawmakers to approve a customer-funded bailout for the financially failing plants.

“We take no joy in First Energy Solutions’ recent announcement, but make no mistake — it is not the inaction of Ohio policymakers that led to this,” said OMA President Eric Burkland. “Ohio decided nearly 20 years ago to move to a competitive energy market. Many generation companies have successfully adapted and continue to thrive. And Ohio energy customers are, without question, coming out ahead.”

Key market indicators show that Ohio’s competitive generation market is working as anticipated:

- Energy customers are saving money — an average of \$3 billion per year.
- System reliability is improving — the PJM energy market currently has a 25% capacity reserve.
- Ohio has 11 new natural gas power plants announced, approved, or under construction, representing a total investment of roughly \$10 billion and 9,937 megawatts of new capacity.
- Uncompetitive power plants are leaving the market (in Ohio alone, nearly 60 individual coal boilers have already been decommissioned).

“This is what happens in competitive markets in every other business sector,” said NFIB/Ohio Executive Director Roger Geiger. “Companies that adapt and modernize succeed. Those that fail to cannot survive. We cannot ask Ohio energy customers, who paid billions of dollars for these plants on the front end, to now provide a bailout after decades of poor business planning.”

OMA and NFIB/Ohio, along with other pro-consumer groups are advocating for energy policy that protects Ohio consumers from unfair rate hikes. House Bill 247 sponsored by Representative Mark Romanchuk is one such bill currently being debated in the General Assembly.

###

ENERGY GUIDE

WHAT DOES FIRSTENERGY SOLUTIONS BANKRUPTCY REALLY MEAN TO YOU

April 11, 2018



No one would have predicted a few years ago that the very same company fighting our policy makers for the opportunity to live or die by the market through electric deregulation would be the same company succumbing to Chapter 11 bankruptcy restructuring, mainly due to the effects of an open market. The company which once had the largest market share of electric-shopping customers in Ohio has been lobbying everyone, even President Trump, for a life preserver to keep its high-cost power plants operating. When one hears about a *perceived* utility going bankrupt most immediately think “Get out the candles, honey, the power is going out” but what are the real impacts of this bankruptcy on Ohio’s people, policy and the price we pay for power?

People

Let’s first understand who the heck is going bankrupt. FirstEnergy Solutions (FES) is a subsidiary to FirstEnergy Corp. Other subsidiaries include the regulated utilities such as Toledo Edison, Ohio Edison and Cleveland Electric Illuminating, which are not included in the bankruptcy action. FES is NOT the utility. It does, however, own the fleet of power plants formerly owned by First Energy Corp. and it does market this power to customers through its deregulated retail operations.

FES has indicated that possibly within the next three years it will close three power plants, two of which are the infamous Perry and Davis-Besse nuclear plants on the shores of Lake Erie; the third a nuclear plant in Pennsylvania. If this actually occurs, the closing will undoubtedly impact the employees of those plants which have been reported by FES at 2,300 and will reduce the power available by 4,000 MW. The bankruptcy filing requests that the plants continue to operate while FES goes through the bankruptcy process which some experts are saying it could take five years at a minimum. All the while, the company will be looking for a buyer of the assets. In the short term, FES indicated that it is business as usual for employees.

The economic challenges of these power plants date back decades with enormous construction cost overruns but the final nail in the coffin was the extreme market pressure from natural

gas plants which can produce power at significantly less cost than nuclear power. Here is the evidence: 11,000 MW’s of new natural gas plants in various stages of planning and construction in Ohio.

Policy

The news of these plants closing has been expected. The company missed the optimum window to sell them, placing all its bets on the ability to lobby for market rule changes and subsidies. Over the past three years, lobbyists for the company have hit up policy makers like a swarm of locusts. They have been active en masse at the Ohio General Assembly, the Public Utility Commission of Ohio and now the Trump Administration. The efforts have not produced any measurable policy changes as there is little data supporting the need for changes other than the viability of FES. Additionally, customer groups, environmental groups and independent power producers have stepped up in to be actively engage in the discussion.

Despite many policy roadblocks, FES is throwing the Hail Mary in the policy fight arguing for an 83-year law that would declare a state of emergency to keep the plants open. Pointing to grid reliability, FES has requested that the federal government give the plants preferential economic treatment to maintain operation. PJM, the grid operator in charge of reliability, refutes the claims that closing those plants will result in reliability issues. Additionally, PJM has mechanisms already in place to provide increased revenue to these plants if they are needed for reliability.

Price

The bankruptcy declaration is not a shock to those close to the energy markets, but it does not ease the pain to the 14,000 FES creditors. The FirstEnergy Corp. stock price did very little on the news and the forward energy markets moved up only a few percentage point. From a short-term perspective, the price to watch is the upcoming PJM capacity auction. This auction determines the price paid to generators by load for committing to meet the system’s peak demand. If FES does not include the 4,000 MW contributed by its nuclear plants in the next auction one would think these auction prices will increase. The auction will be held next month for delivery in June 2021 to May 2022. (Customers may remember a similar plant closure announcement which occurred right before the 2015 – 2016 PJM capacity auction. The auction cleared three times the historic average auction price resulting in customer bills increasing by over 25% for that year.)

That being said, the new gas-fired power plants under development will more than make up this lost capacity but it is all about the timing. If all the projects are built by the time of these nuclear plants fully retire, there will be enough power to supply two times the demand of every resident in the state of Ohio. This fundamental is very bearish to long term prices. Replacing these nuclear plants with nearly double the capacity *and* at a production price significantly less leads us to speculate that prices will remain low for the long term.

CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300
280 NORTH HIGH STREET
COLUMBUS, OHIO 43215

FirstEnergy's Recently Announced "Agreement in Principle" with Certain FES Creditors

April 26, 2018

Late Monday, FirstEnergy Corp. ("FE") announced that it had entered into an "Agreement in Principle" with two groups of creditors of FirstEnergy Solutions Corp. ("FES"). The first is the steering committee for the "FES Ad Hoc Noteholder Group." This committee holds in aggregate a majority of (a) the outstanding pollution control revenue bonds that are supported by notes issued by FirstEnergy Generation, LLC and FirstEnergy Nuclear Generation, LLC and (b) the senior notes issued by FES. The second group of creditors holds a majority of the pass-through certificates issued in connection with the sale-leaseback transaction for Unit 1 of the Bruce-Mansfield Plant. Neither FES nor its Official Committee of Unsecured Creditors have yet agreed to the deal. The way the term sheet is structured, it is technically with the FE parent holding company, and not any of its regulated subsidiaries, but it is reasonable to believe that the FE holding company will ultimately look to its regulated subsidiaries to generate cash to fund its obligations under this agreement.

In essence, the agreement would provide for FES and its creditors to release all claims against FE, its nondebtor affiliates, and their respective directors, officers, employees and professionals in return for it providing the following package of support, **which appears to be at least \$1.645 billion in value flowing from FE to FES** (although, as described below, some of this money may have been paid anyway had FE and FES continued their existing tax sharing arrangements):

1. Employee claims. FE will pay pre-April 1, 2018 claims and guarantees for certain employee related obligations of FES. The covered obligations include pension, deferred compensation, certain bonus obligations, and certain retiree medical costs. These payments have not been quantified, but would release FES of the obligation to make these payments.
2. Continuation of tax sharing plan. FE and FES will continue to perform under their tax sharing agreement until FES emerges from bankruptcy. Under this plan, FE currently pays FES for its usage of FES's net operating losses to offset some of FE's taxable income. This agreement also provides for FE to waive claims related to a 2017 overpayment due from FES and restore a 2018 setoff it had made based on this amount (amount not disclosed).

3. Tax notes. FE will issue FE tax notes totaling \$628 million for distribution to creditors when FES emerges from bankruptcy. The amount of these notes will be reduced based on any payments of cash made by FE to FES under the tax sharing agreement prior to emergence from bankruptcy on account of FES's sale or deactivation of any nuclear or fossil fuel plants other than the West Lorain plant. The notes will bear interest based on the treasury rate and will mature on December 31, 2022. Another way of looking at this is that FE is as a guarantee that FES will receive at least \$628 million in value under the tax sharing plan.
4. Pleasants Power plant transfer. Allegheny Energy Supply Company LLC will transfer the Pleasants Power plant to FES. FE will remain responsible for liabilities related to that plant that arise prior to FES's emergence from bankruptcy.
5. Release of debt claims. When FES emerges from bankruptcy, FE will release its claims against FES related to the "money pool" FE operated with FES, the intercompany lending facility it had with FES, the rail claim settlement, and the intercompany note FES issued to Allegheny Energy Supply Company LLC. While the press release does not quantify these amounts, FES in filings with the bankruptcy court indicated it owed \$700 million to FE on the intercompany lending facility and \$102 million on the intercompany note, so this release of claims provides at least \$802 million in value to FES.
6. Cash Payment. FE will on the effective date of a chapter 11 plan provide a cash payment to FES of \$225 million less the amount of the 2018 setoff restoration.
7. Free services. FE is also agreeing to provide "reasonable cooperation and coordination" on regulatory and governmental matters to FES without charging these amounts back under the existing Share Services Agreement.

It should be noted that the continuation of the tax sharing plan and the \$628 million in tax notes are, in many ways, a continuation of the existing practice where the holding company pays FES for its usage of FES's net operating losses to offset taxable income generated by FE's other subsidiaries (including the regulated utilities).

The agreement does provide FE a penny warrant allowing it to enjoy a 50% share of recoveries once the unsecured PCN notes receive more than 60 cents on the dollar. The warrant must be exercised within three years of FES emerging from bankruptcy.

The deal is not effective until definitive legal documents are prepared, the boards of FirstEnergy Corp. and Allegheny Energy Supply Company LLC approve it, the deal is approved by the Bankruptcy Court in FES's bankruptcy case, and the confirmation of a Chapter 11 plan for FES. The agreement is structured to have the FES Ad Hoc Noteholder Group and the

Mansfield Creditors push FES and its Creditors' Committee to decide if they want to join in by June 15, 2018. **In essence, this represents FE's opening bid to resolve the possible claims of FE and its creditors against it and they have enlisted the FES Ad hoc Noteholder Group and the Mansfield Creditors in this bid. While the specific claims that are being released have not yet been publicly described, the size of this proposal indicates that FE must have significant concerns about litigation against it arising from its transactions with FES over the years.** It is possible that either FES or its Creditors Committee will hold out for more money from FE. It is also quite likely that the Creditors' Committee will ask the Bankruptcy Court for time to investigate possible claims of FES against FE to try to determine if the consideration is reasonable.

We will continue to monitor the situation for more developments. Please do not hesitate to contact us if you have any questions.

CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300
280 NORTH HIGH STREET
COLUMBUS, OHIO 43215

CONFIDENTIAL MEMORANDUM

Do Not Distribute

TO: Ohio Manufacturers' Association Energy Group

FROM: Kim Bojko, Carpenter Lipps & Leland LLP

DATE: June 1, 2018

SUBJECT: Summary of President Trump's Unprecedented Intervention into Competitive Energy Markets

This afternoon, President Donald Trump announced that he was directing Energy Secretary Rick Perry to take action to save failing coal and nuclear power plants. These plants are failing because they are unable to compete with cheaper and more efficient natural gas and renewable resources. The administration previously submitted a proposed rule to the Federal Energy Regulatory Commission (FERC) that would have subsidized these plants at the expense of ratepayers. OMAEG, along with state utilities commissions (including the PUCO) and other customer groups, opposed this proposed rule. In January, FERC unanimously rejected the proposed rule as neither just nor reasonable.

The unprecedented directive by the President repeats the previously-offered arguments that these plants, which are losing money, are necessary for the resiliency and reliability of the electric power grid. OMAEG and others previously disputed these claims, pointing out that there is no persuasive evidence to support the claim that failing and outdated power plants provide a tangible benefit to the electric grid through increased reliability or resiliency. This time around, however, the administration is also contending that the failing plants are essential to ensuring national security. Therefore, the administration argues, the situation requires the exercise of emergency authority to save the coal and nuclear plants. The exact actions that the administration will take have not yet been stated, but a memo prepared by the Department of Energy suggests that the plan will involve ordering grid operators to purchase electricity and generation capacity from a specified list of power plants.

This proposal will disrupt the competitive market and result in increased electric costs for manufacturers. Forcing grid operators to purchase electricity and generation capacity at prices necessary to support these plants that cannot compete with the lower prices offered by others in the market will mean that ratepayers are forced to pay increased costs for electric service. OMAEG will monitor this issue as it progresses and pursue all available avenues to oppose any plans that are introduced that would result in increased charges to manufacturers.

Documents reveal a lobbying blitz by FirstEnergy as Trump mulled bailout

A [new filing in the bankruptcy case for FirstEnergy Solutions](#) details how lobbyists at Akin Gump, Washington, DC's top-earning lobbying firm, spent hundreds of hours in April working on a renewed campaign to secure bailouts for the utility's coal and nuclear power plants from the Trump administration and state lawmakers in Ohio and Pennsylvania.

The nearly \$1 million that FirstEnergy Solutions is now known to have paid Akins Gump for its political work in the first four months of 2018 has brought the bankrupt utility a step closer to winning a federal government bailout that [clean energy advocates warn could cost consumers \\$8 billion](#).

The [White House issued a statement](#) on June 1, 2018, which said President Trump has directed his Secretary of Energy Rick Perry to "prepare immediate steps to stop the loss" of what the administration described as "fuel-secure sources" in a thinly veiled reference to coal and nuclear power plants.

The statement was thin on details, but came after [Bloomberg broke the news](#) that the Trump administration has been working on plans to use rarely invoked provisions of the Defense Production Act and Section 202(c) of the Federal Power Act to bail out coal and nuclear plants. Bloomberg obtained a May 29, 2018 draft memo that was circulated before a National Security Council meeting.

"Federal action is necessary to stop the further premature retirements of fuel-secure generation capacity," the memo said.

When FirstEnergy Solutions [filed for bankruptcy](#) just over two months earlier, on March 31, Akin Gump Strauss Hauer & Feld was [lined up to serve as its legal counsel and lobbyist](#). Akin Gump also [topped a list of Washington, D.C.'s firms for lobbying revenue](#) during the first quarter of 2018.

On March 29, FirstEnergy Solutions [petitioned](#) Energy Secretary Rick Perry to use the emergency powers of Section 202(c) of the Federal Power Act to order regional grid operator PJM to bail out a long list nuclear and coal power plants.

On May 30, Akin Gump filed its [first monthly fee statement](#) in the [bankruptcy case of FirstEnergy Solutions](#). The filing offers a rare look inside Akin Gump's high-priced lobbying campaign on behalf of FirstEnergy Solutions.

Akin Gump's 100-plus page report covers the month of April, and [reveals a top lobbyist's calls with the Department of Energy and White House](#) to discuss the status of the Section 202(c) proposal. It also reveals [Akin Gump's calls with a state-level lobbyist](#) to discuss a FirstEnergy meeting with Richard Cordray, the Democratic candidate for governor in Ohio.

Akin Gump reported [\\$443,396 in fees for work on "Energy Regulatory Issues"](#) for FirstEnergy Solutions in April, plus over \$310,000 in fees for [federal](#) and [state](#) "Government Affairs" work. When you add in the [\\$230,000 Akin Gumpin disclosed in a federal lobbying report](#) for January-March, that's nearly \$1 million dollars the firm received for its political work on behalf of FirstEnergy Solutions in the first four months of 2018.

The Energy and Policy Institute [uploaded the Akin Gump filing to DocumentCloud](#) and has annotated the document to highlight examples of FirstEnergy's

high-priced campaign for a federal or state level bailout.

Targeting the Trump administration

On April 13, [Akins Gump reported](#) a “call to DOE re potential 202c determination” and a “call with White House staff re 202 status” by “JRT” or [James Romney Tucker](#). The filing disclosed \$53,312.00 in fees at a rate of \$930 per hour for Tucker’s “Public Law & Policy” work for FirstEnergy Solutions.

Tucker worked for Newt Gingrich in 1996, when Gingrich was speaker of the U.S. House, according to his [bio on Akin Gump’s website](#). Gingrich is now a close ally of President Trump.

Much of the work Akin Gump reported doing on behalf of FirstEnergy Solutions [involved Section 202\(c\) of the Federal Power Act](#) or [the Defense Production Act](#), the two laws that the Trump administration is now considering using to bail out coal and nuclear power plants.

On April 4, “GKV” or [Geoffrey K. Verhoff logged](#), “Emails with internal team re talking points for Congressman McKinley and Trump’s West Virginia visit.” Verhoff is [a senior advisor at Akins Gump](#).

President Trump visited West Virginia that same day and [promised supporters](#) that his administration would “look at” using its Section 202(c) emergency powers to keep coal and nuclear power plants running.

Akins Gump disclosed a total of \$27,607.50 in fees at a rate of \$675 per hour for “Public Policy” work by [Geoffrey Verhoff](#). According to [his bio](#) on the firm’s website:

Mr. Verhoff continues to maintain an active role in Republican politics. He is a current regional vice chairman of the Republican National Committee’s finance leadership team and has been extensively involved in the past four presidential campaigns, as well as numerous House, Senate and third-party efforts.

Verhoff contributed \$1,000 to the Trump transition, according to [PRI](#).

On April 5, [Verhoff reported](#) “internal discussions re Jeff Miller and FE engagement of lobbyists.” Jeff Miller ran Rick Perry’s 2016 unsuccessful presidential campaign. After Perry became Energy Secretary, Miller started his own lobbying firm, Miller Strategies LLC, and has lobbied on behalf of FirstEnergy. According to [Bloomberg](#), Miller attended a fundraiser dinner with Trump the night before the president made the public comments about the utility’s bailout request. Miller Strategies has reported \$110,000 in lobbying fees billed to FirstEnergy each quarter since the third quarter of 2017 and notes that the [Executive Office of the President](#), [the Vice President](#), Department of Energy, and Congress have all been lobbied.

On April 30, “HAT” or Henry A. Terhune, a partner at Akins Gump, [worked](#) to “review/edit draft letter for OSU letter to Secretary Perry regarding 202c petition...” It is unclear what or who OSU is in the lobbyist’s note, but it could be referring to Ohio State University.

Coordinating with members of Congress to influence the Trump administration

In March, [the Cleveland Plain Dealer reported](#) on two separate letters sent by members of Congress asking FERC and President Trump to intervene to keep coal and nuclear power plants open. “FirstEnergy insists it has not been involved in either of these new lobbying campaigns,” John Funk reported.

But in April, Akins Gump lobbyists met or corresponded with a number of members of Congress and their staff, including Rep. representatives [Bill Johnson](#) of Ohio, Rep. [David McKinley of West Virginia](#), and Rep. [Keith Rothfus](#) and Senator [Pat Toomey](#) of Pennsylvania.

On April 12, Secretary Perry [testified before the House Subcommittee on Energy](#), where he responded to a question from McKinley. As [Utility Dive reported](#):

“Some form of 202(c) or some other emergency act is necessary if we’re going to have national security,” McKinley said. “I’m calling on you to use whatever legal power you have so ... we can have a reliable grid system.”
“I hope your remarks have been televised and we can put them up,” Perry responded, “because you have succinctly made the point of exactly what has to happen in this country from the standpoint of being able to protect the resilience and reliability of our electric grid.”

In the days between when the hearing was announced and when it took place, [Tucker reported a call and meeting with “E&C committee staff.”](#) and [Verhoff logged](#) his work to “follow up with Congressman McKinley staff via email...”

Don Moul, the president of FirstEnergy Solutions Generation Companies, was personally involved in Akins Gump’s work around the “E&C meeting,” according to [multiple log entries](#).

On April 27, Rothfus and McKinley [put out a press release](#) announcing their latest effort to urge “the Trump administration to protect coal and nuclear power plants,” a letter signed by 20 members of Congress.

Earlier, on April 12, a “call with Rothfus office re Congressional 202 letter and next steps” was [made by Verhoff](#). The next day, [Verhoff met with McKinley’s staff](#).

Verhoff later [logged emails and calls](#) with Rothfus’s office “re 202c rumors” and to [follow up on press coverage](#) after the letter was released.

A renewed push for bailouts in Ohio and Pennsylvania

In a [separate filing found in FirstEnergy Solution’s bankruptcy docket](#), the Dewey Square Group disclosed its work to revive the utility’s campaign for a state level bailout for its nuclear power plants:

Since March 21, 2018, the Debtors have requested that the firm provide management of an advocacy campaign in support of legislation related to nuclear energy in Ohio and Pennsylvania, and the Firm has agreed to provide such services.

John Geisser, COO for the Dewey Square Group, disclosed a monthly fee of \$98,500 for Jason Cohen and Jonathan Drobis to work on the FirstEnergy Solutions campaign. [Cohen](#) is the head of the firm’s National Grassroots Practice and [Drobis](#) is a principal in the same practice.

Dewey Square Group is a Hill + Knowlton Strategies company that runs advocacy and astroturf campaigns for corporations. According to the [Washington Post](#), the firm “has been paid by General Motors Corp., the American Insurance Association, AT&T Corp., Blue Cross and Blue Shield

Association and Microsoft, among others, to drum up support from voters for legislation the companies advocate.”

On April 19, [Verhoff reviewed](#) a “DSG plan for grassroots mobilization in PA/OH...”

Akin Gump worked with Dewey Square Group and a number of other lobbying firms on the state campaigns. Verhoff was involved in discussions about a FirstEnergy meeting with Richard Cordray, the Democratic candidate for governor in Ohio.

Verhoff [reported an April 1 meeting](#) with “Juan/Oxley to discuss Columbus outreach and related strategy” and to “discuss Kasich outreach, OH targets, and campaign issues...”

Juan Cespedes of The Oxley Group is [a registered lobbyist for FirstEnergy Solutions in Ohio](#).

Verhoff later [reported an April 9](#) “Call with OH counsel re: Columbus landscape and Corday interaction in advance of FE meeting...”

Two days later, [Verhoff logged](#) a “call with J. Oxley to discuss OH assembly issues including FES Columbus visit, resignation of OH speaker, and Cordray FE visit.”

Several bills to bail out FirstEnergy’s nuclear power plants in Ohio stalled under former Ohio House Speaker Cliff Rosenberger, [whose resignation amidst an FBI investigation](#) appeared to open the door for Rep. Larry Householder to mount an early bid for the speaker position. Householder is [a co-sponsor](#) of the latest version of FirstEnergy’s “Zero Emissions Nuclear,” or ZEN, bailout legislation.

The [Cleveland Plain Dealer reported](#) on how before Ohio’s primary elections, FirstEnergy made contributions to Householder’s campaign and to candidates who were likely to support his bid for speaker. Two days later, Akin Gump [reported work](#) to “Review media report on lobbying and also Ohio political participation by FE (parent).”

Householder decided to wait until 2019 to mount his bid for speaker, and the speakerless Ohio House remains mired in a political stalemate that has stalled votes on any legislation.

Meanwhile, Akin Gump was [engaged in staff discussions](#) of new “draft OH legislation by Rep.

Ardnt.” It is not clear what the new draft bill will entail.

Elsewhere in the Akins Gump log, work to “review draft paper on potential RPS solutions in OH AND PA and discuss with staff” is [reported](#). Some states have [modified their renewable portfolio standard policies to benefit the nuclear industry](#), though usually as [part of a compromise that also strengthens support for renewable energy](#).

New details about FirstEnergy’s use of the Nuclear Energy Institute as a political arm FirstEnergy Nuclear Operating Company disclosed annual dues payments to the Nuclear Energy Institute that amounted to \$1,286,969.23 in another bankruptcy filing.

Like FirstEnergy, [NEI filed a 202\(c\) petition earlier this year](#) asking U.S. Energy Secretary Rick Perry to bail out nuclear power plants in the PJM Interconnection, where FirstEnergy’s struggling nuclear power plants are located.

On April 9, Akins Gump’s [Terhune worked to](#) “Review ICF proposed study proposal for NEI on resilience analysis and correspondence with staff re same...”

A month later, on May 9, [NEI filed comments with FERC that included an interim report by ICF](#) titled, “The

Impact of Fuel Supply Security on Grid Resilience.”

NEI called on FERC to “Foster resilience by adopting planning standards and market policies such that generators that contribute to resilience are incentivized to participate in the market.” In short, this was a call for action to bail out nuclear power plants.

Akin Gump lobbyists also [held a teleconference with NEI](#) in April, and [worked with an outside firm on polling and focus group targets](#) from information provided by the Nuclear Energy Institute and FirstEnergy.

Lobbyists get paid... and consumers may pay the price

While a state or federal government bailout of coal and nuclear power plants is not a done deal, analysis has shown that an earlier bailout proposal by the Trump administration [could have cost consumers billions of dollars](#). Similarly, analysis has warned that one version of FirstEnergy’s nuclear bailout in Ohio could [cost consumers hundreds of millions of dollars](#).

While residents of some communities may benefit from bailouts that preserve jobs and tax revenue that power plants provide, far more consumers will be left to pay the bill. Ultimately, it is the lawyers and lobbyists at Akin Gump, as well as FirstEnergy’s shareholders, that seem poised to benefit at consumers’ expense.

FirstEnergy PAC writes big checks to House speaker hopeful Larry Householder, campaign allies

Updated Apr 20; Posted Apr 20



FirstEnergy Corp.'s political action committee has ramped up donations to House Republican candidates, including to House speaker candidate Larry Householder and a number of his political allies. (FirstEnergy)

By [Jeremy Pelzer, cleveland.com](mailto:jpelzer@cleveland.com)
jpelzer@cleveland.com

COLUMBUS, Ohio--FirstEnergy Corp. has opened up its wallet for a number of Ohio House Republican candidates, including House speaker candidate Larry Householder and many of his allies.

In the first two months of 2018, the Akron-based power company's political action committee donated more than \$5,000 to the Perry County Republican and a total of about \$149,000 to more than a dozen other House candidates, state campaign finance records show. Most, if not all, of the recipients have either backed Householder for speaker or are considered by many to be on his side, although some have not come out publicly in support of him.

During that time, FirstEnergy's PAC made only a handful of other political donations - none of which went to supporters of Householder's rival for the speaker's gavel, GOP Rep. Ryan Smith.

It's unclear exactly why FirstEnergy decided to put so much money behind Team Householder. But Householder has enjoyed a warm relationship with the company - last year, he and one of his sons [used a FirstEnergy corporate plane](#) to attend President Donald Trump's inauguration.

Householder and a number of his legislative allies are also co-sponsors of legislation that would allow FirstEnergy subsidiaries to charge customers about

\$2.50 more per month to subsidize the Davis-Besse and Perry nuclear power plants in northern Ohio. The legislation, [House Bill 381](#), has been stalled in committee since it was introduced last fall. The subsidiaries, FirstEnergy Solutions and the FirstEnergy Nuclear Operating Co., announced in late March that [they plan to close both nuclear plants](#) within the next three years, on the grounds that they cannot compete with new ultra-efficient gas turbine power plants.

FirstEnergy Solutions [filed for bankruptcy protection](#) earlier this month.

FirstEnergy spokesman Doug Colafella didn't directly say why the company's PAC made the contributions. In a statement, Colafella said, "FirstEnergy's Political Action Committee supports both Republican and Democrat candidates and officeholders whose interests align with those of our customers, employees and shareholders. Our PAC funds are distributed based on the recommendations of an internal committee of employee-members."

Householder and his spokesman, Chris Schrimpf, didn't return phone calls seeking comment.

FirstEnergy PAC donations

Candidate	District	Donation
Brian Baldrige	90	\$11,000
Tim Barhorst	19	\$7,500
Jamie Callender	61	\$12,700
Jon Cross	83	\$12,700
Anthony DeVitis	36	\$7,707.79
Jay Edwards	94	\$8,708
Travis Faber	84	\$11,000
Josh Hagan	50	\$5,500
Stu Harris	21	\$5,000
Larry Householder	72	\$5,207.79
Kris Jordan	67	\$11,700
Jena Powell	80	\$12,700
Mike Rasor	37	\$12,700
Tracy Richardson	87	\$7,500
Jim Trakas	6	\$12,700
Shane Wilkin	91	\$10,000

Source: Ohio secretary of state's office



MEMORANDUM

Date: May 25, 2018
To: Ohio Manufacturers' Association
From: Jordan Nader & John Seryak, PE (RunnerStone, LLC)
RE: The Ohio Senate Sub. H.B. No. 114

On May 16th, 2018, the Ohio Senate Energy and Natural Resources Committee held the 5th hearing on Substitute House Bill No. 114 (Sub. H.B. 114). At this hearing, a Senate modified version of HB 114 was introduced and a comparative synopsis to the version as passed by the Ohio House was published by the Ohio Legislative Service Commission (LSC). There were several areas where the Senate improved the bill, however in the area of the utility incentives for operating energy efficiency programs the Senate has proposed a path that has the potential to materially harm Ohio's manufacturers. There are four key components: Shared Savings, Wind Turbines, expanded Mercantile Opt-Out, and a reduction to the Energy Efficiency and Peak Demand Reduction and Renewable Energy Portfolio standards. Following is a summary of the components, and then detailed explanations of each provision:

- Shared-savings on banked energy savings – Allows a distribution utility to collect profit on energy-efficiency programs even if they are underperforming. Go's against previous PUCO rulings. Increases costs to customers.
- Wind turbines, small wind farm – Increases the size of customer-sited small wind farms from 5 MW to 20 MW that would not be subjected to approval from the Ohio Power Siting Board.
- Wind turbines, setbacks for economically significant wind farms – Modifies wind-setback distance between turbines and nearby habitable structures. It is expect the set-back modifications would result in renewed wind farm construction in Ohio.
- Expanded mercantile opt-out – Expands the existing large-user opt-out of efficiency programs to all mercantile customers. A mercantile customer uses over 700,000 kWh per year, or is part of a national account. The opt-out provides increased choice and flexibility for many manufacturers, but could result in less overall efficiency investment in Ohio.
- Reduction in efficiency and renewable energy standards – Reduces cumulative Energy Efficiency Resource Standard from 22.2% to 17.2%, and the Renewable Portfolio Standard from 12.50% to 8.50%.



Shared Savings

As background, under Ohio Revised Code, Ohio’s electric distribution utilities (EDU) are required to operate programs to incentivize energy efficiency improvements and peak demand reductions (EE/PDR) from their customers. These programs can improve the competitiveness of Ohio’s manufacturers by reducing the amount of energy required to create products by manufacturers implanting energy efficiency projects, and by suppressing the price of electricity for all consumers. Ohio’s EDU’s are fully regulated businesses whose profit margin is set by state regulators. A shared savings mechanism was designed to create profit incentives for the EDUs, whereby energy savings achieved beyond 100% of the statutory requirements in a single year would allow the EDU to collect a percent of the value of the electrical system’s financial savings for their shareholders. If an EDU achieved greater than 115% of the statutory energy savings requirement then the EDU could elect to “bank” those additional kWh savings for compliance in future years.

The shared savings mechanism is not without issues, including being extremely lucrative for the EDUs. Moreover, an EDU attempted to use the banked savings to raise their energy savings in that year to a level above 100% of statutory requirements in order to trigger the shared savings mechanism. The OMA Energy Group argued that this was improper as the intent of the banked energy savings was to insure against program compliance shortfalls not, as the EDU argued, *to reward a lack of performance*. The PUCO found that the OMAEG was correct and that it was improper to utilize banked energy savings to trigger the shared savings mechanism. This was good for Ohio’s manufacturers and maintained the integrity of the EE/PDR programs.

In the current version of the Sub. H.B. 114, there is language that would require an EDU to receive shared savings “even if the amount in excess of that benchmark is due in whole or in part to the use of banked savings...” This has the potential to allow EDUs in Ohio to reduce their EE/PDR programs, or cease to operate them due to an abundance of banked energy savings, but still collect revenue from Ohio manufacturers to pay for shared savings for the EDUs shareholders.

Ohio’s four investor-owned utilities can currently recover nearly \$62 million a year in profit through shared-savings.

Wind Turbines

There are additional components of Sub. H.B. 114 that have the potential to provide benefit to some manufacturers. Specifically, the definition of “small wind farm” would be modified to make them not subject to the jurisdiction of the Ohio Power Siting Board. This may allow easier deployment of small wind farms. Additionally, “private wind project” would be a new definition allowing self-generators to possess generation in aggregate capacity of less than twenty megawatts and would fall under the category of a “small wind farm.” The previous limit for private wind projects was 5 MW. This could allow significant deployment of wind generation behind the meter for those manufacturers seeking to control their electricity costs.

In conjunction with this relaxing of regulation on private wind turbine ownership, the bill would loosen the current setback limitations on “economically significant wind farms” by allowing siting based on “the nearest, habitable, residential structure” instead of to the property line of a residential



property. Prior to a law change that occurred in 2014, the setback rules for Ohio relied on the distance to residential structures instead of the more restrictive residential property line currently in effect. The bill's proposed changes to wind setbacks would likely allow wind farm development to reach economical scale, and could result in new wind farm construction in Ohio, which has been stymied since the passage of the 2014 setback. There is also a provision for owners of adjacent property to waive their right to the application of these setback rules.

Mercantile Opt-Out

Current law limits EE/PDR program opt-outs to those customers who take service above primary voltage or also consume forty-five million kilowatt hours each year. The opt-out provision in law allows eligible customers to forgo paying the cost of EDU efficiency programs, though they also forgo being able to receive direct benefits from the programs. This bill would expand the potential to opt-out of paying EE/PDR riders to mercantile customers as well regardless of their annual energy consumption. Mercantile customers use 700,000 kilowatt hours each year or more, or are part of a national account. This opt-out would not go into effect until January 1, 2020 and the customer would be required to file a report with the PUCO detailing the "energy-intensity tracking and benchmarking approaches that the customer intends to use for designing and implementing the projects, actions, policies, or practices to reduce energy intensity." Additionally, the customer would have to file every two years an updated report to the PUCO. The existing large user opt-out covers approximately 20% of Ohio's electrical load, of which about half has chosen to opt-out. The mercantile opt-out would cover about 50% of Ohio's electrical load. However, it could result in less overall energy savings for Ohio, and Ohio manufacturers, and over time this would increase electricity prices for all ratepayers.

The opt-out creates flexibility and choice for Ohio manufacturers in how to manage their own energy use. If a customer is confident in their ability to improve the efficiency of their production without the benefit of an efficiency program designed to reduce the capital costs to the customer, this provision will likely be seen as favorable. On the other hand, in many cases EE/PDR programs have been valuable to customers, and the bulk of studies show that they do reduce overall system energy usage. This, in the end, keeps electricity prices for everyone in check. Moreover, there have been times where individual customers have opted-out of the programs only to have the rider billing value become a credit and the customer has not received the rebate that was their due. This does create risk for customers. When an opt-out provision is available through law, eligible manufacturers can and should determine if participating in the efficiency programs is in their interest.

Reduction in annual Energy Efficiency and Renewable Energy Standards

Current law requires EDUs to implement energy efficiency programs with an increase in the amount of energy savings required to achieve annually increasing over time. The law requires a total achieved energy savings "in excess of twenty two per cent by the end of 2027." The substitute bill proposes to reduce the total achieved amount to 17% by the end of 2026 by changing the energy savings



requirement to 1.5% in years which currently require 2% energy savings and removing the requirements in 2027. Table 1 below shows the differences between the current law and the substitute bill.

Practically speaking, this will make it easier for the EDUs to achieve the required energy savings in future years when compared against the current 2.0% energy savings expected in 2021. However, there is some evidence that a savings rate of 2% per year can be legitimately difficult to achieve, and can result in increases in unit cost (\$ per kWh saved) and overall cost of programs. Therefore, a reduction in annual efficiency requirements has some merit.

Energy Efficiency and Peak Demand Reduction		
Year	Current Standards	Senate HB 114 Proposed Standards
2009	0.30%	0.30%
2010	0.50%	0.50%
2011	0.70%	0.70%
2012	0.80%	0.80%
2013	0.90%	0.90%
2014	1.00%	1.00%
2015	-	-
2016	-	-
2017	1.00%	1.00%
2018	1.00%	1.00%
2019	1.00%	1.00%
2020	1.00%	1.00%
2021	2.00%	1.50%
2022	2.00%	1.50%
2023	2.00%	1.50%
2024	2.00%	1.50%
2025	2.00%	1.50%
2026	2.00%	1.50%
2027	2.00%	-
Total:	22.20%	17.20%

Table 1: Current and Proposed Annual and Cumulative Benchmarks for the Energy Efficiency Resource Standard



Additionally, current law requires EDUs and retail electric suppliers to provide a minimum amount of renewable energy to its customers, with annual and cumulative benchmarks. Additionally, there is a “solar carve-out” requiring that some of the renewable energy come from solar resources.

The substitute bill proposes to reduce the total achieved amount to 8.5% by the end of 2022 and eliminates the requirement to achieve 12.5% renewable energy by 2026. Table 2 below shows the differences between the current law and the substitute bill.

Renewable Portfolio Standard				
Year	Current Standards		Senate HB 114 Proposed Standards	
	Renewable Energy	Solar	Renewable Energy	Solar
2009	0.25%	0.004%	0.25%	0.004%
2010	0.50%	0.01%	0.50%	0.01%
2011	1.00%	0.03%	1.00%	0.03%
2012	1.50%	0.06%	1.50%	0.06%
2013	2.00%	0.09%	2.00%	0.09%
2014	2.50%	0.12%	2.50%	0.12%
2015	2.50%	0.12%	2.50%	0.12%
2016	2.50%	0.12%	2.50%	0.12%
2017	3.50%	0.15%	3.50%	0.15%
2018	4.50%	0.18%	4.50%	0.18%
2019	5.50%	0.22%	5.50%	0.22%
2020	6.50%	0.26%	6.50%	0.26%
2021	7.50%	0.30%	7.50%	0.30%
2022	8.50%	0.34%	8.50%	0.34%
2023	9.50%	0.38%	8.50%	0.34%
2024	10.50%	0.42%	8.50%	0.34%
2025	11.50%	0.46%	8.50%	0.34%
2026	12.50%	0.50%	8.50%	0.34%
Thereafter:	12.50%	0.50%	8.50%	0.34%

Table 2: Current and Proposed Annual and Cumulative Benchmarks for the Renewable Portfolio Standard

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: June 6, 2018

Overview

With the House of Representatives devoid of a Speaker, Director Butler and Ohio EPA continue to push for new legislation to address phosphorus discharge into Lake Erie. The legislature continues to spurn the administration's attempts at legislation and has offered a more palatable funding approach. The administration is now considering countering with an executive order addressing Lake Erie. With summer quickly approaching most legislative activity will shut down until after the fall elections setting up a rip roaring lame duck session.

General Assembly News and Legislation

House Bill 225 – Abandoned Well Regulation

The bill would allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well. The bill was passed out the House in January. The Senate passed a substitute version of the bill last week. However the bill remains in limbo because the House will need to concur with the Senate changes and until the House names a new Speaker all voting activity remains suspended.

Senate Bill 228 and House Bill 463 – Solid Waste Disposal Fee Increase

These companion bills would increase one of the state fees levied on the transfer or disposal of solid waste in Ohio. The proceeds of this increase will be deposited into the Soil and Water Conservation District Assistance Fund. The House has had one hearing on the bill. The OMA is working with allies to oppose the legislation.

Senate Bill 299 and House Bill 643 – Lake Erie Protection Appropriations

These two companion bills would allow for equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the Parks and Recreation Improvement Fund, and to appropriate funds for projects enhancing water quality in the Western Lake Erie Basin. These bills are in response to Ohio EPA's legislative proposal that would have drastically increased manufacturer regulation of the discharge of phosphorus. The bills which are supported by the OMA have had several hearings over the past couple of weeks.

House Concurrent Resolution 25 – Western Lake Erie

The resolution urges the Administrator of the United States Environmental Protection Agency to declare the open waters of Western Lake Erie as impaired pursuant to the federal Clean Water Act.

Ohio EPA DRAFT WATER LEGISLATION

Earlier this spring Ohio EPA Director Craig Butler announced his intent to have legislation introduced that would, among other things, place a statewide phosphorus limit of 1 mg/L on direct dischargers. The OMA's phosphorus working group has been working with legislators and experts on this issue since last summer. The group was instrumental in getting the bill killed prior to any introduction.

Regulations

Kasich Mulls Executive Action on Phosphorus

With the Ohio EPA's phosphorus bill still lacking a sponsor, Gov. John Kasich made waves discussing a potential executive order action to move forward on phosphorus regulation.

The Cleveland Plain Dealer reported that the governor is considering issuing an executive order if the General Assembly will not limit fertilizer use in parts of the state that heavily contribute to the phosphorus flow into Lake Erie.

As of now it looks like the governor is focused strictly on fertilizer and agriculture and not on industrial point source discharge. However, this is a new twist in the ongoing phosphorus saga that manufacturers will carefully watch as the governor's final term nears its end.

Ohio EPA Influences Construction NPDES

Earlier this spring the OMA filed a detailed letter with the Ohio EPA to express concerns with the agency's draft permit: General Permit Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System (NPDES).

The OMA wrote: "The proposed changes encompassed in the draft permit would fundamentally change how this permit currently operates ... Moreover, the changes would create state requirements that are substantially different than the federal requirements. ... The draft permit not only requires the protection of storm water quality during the construction phase of projects, but now also attempts to control engineering and site hydrology both during and after (into perpetuity) all construction, resulting in a substantially increased burden on permittees. Further explanation and clarity is needed with these changes, to allow permittees to understand Ohio EPA's expectations and intent."

The OMA also filed joint comments with several other trade associations representing a multitude of impacted industries. The OMA was able to get several changes in the final version of the permit benefitting manufacturers.

OMA Weighs in on Federal Water Issue

The OMA submitted formal comments to U.S. EPA regarding whether pollutant discharges from point sources that reach jurisdictional surface waters via groundwater, or other subsurface flow that has a direct hydrologic connection to jurisdictional surface waters, may be subject to regulation under the Clean Water Act (CWA).

In its comments the OMA requested that "U.S. EPA undertake a notice-and-comment rulemaking to clearly implement the Clean Water Act, which does not regulate nonpoint sources in the National Pollutant Discharge Elimination System (NPDES) program."

OMA wrote: "The resulting rule would provide regulatory certainty for the agency, states, dischargers, courts, and the public. The rulemaking should: (1) reject the "hydrologic connection theory"; (2) confirm that the "hydrologic connection theory" was not based on a thorough analysis of CWA; and (3) endorse a plain language interpretation of the statute."

OMA Submits Comments on Proposed Textile Exclusion Rule

Last month the OMA submitted comments to Ohio EPA on its Proposed Draft Hazardous Waste Laundered Textile Exclusion Rule 3745-51-06. In its comments OMA suggested that instead of

creating and implementing an entirely new regulatory scheme for textile exclusion, Ohio EPA should adopt the approach taken by Indiana, which has proven to be highly successful, straightforward in implementation and environmentally-friendly.

The Indiana Department of Environmental Management (IDEM) does not regulate “contaminated” (i.e., soiled) clothing sent for cleaning and reuse as a “solid waste,” therefore, laundered and reused clothing is not subject to certain regulation.

If Ohio EPA proceeds with the proposed rule, OMA will argue to minimize the conditions placed on the generators of such textiles. The current rule draft is too burdensome for many of the intended beneficiaries to take advantage of the intended exclusion.

ORSANCO Pollution Control Standards

In response to the Ohio River Valley Water Sanitation Commission’s (ORSANCO) recent public notice of its Pollution Control Standards (PCS) triennial review, the OMA provided written comments regarding potential revisions to the PCS.

OMA wrote: “The water quality goals of the Compact are being effectively addressed by the Clean Water Act and the PCS no longer provide the value and impact they once did. Today, the difference between the PCS and Clean Water Act standards can and do lead to confusion for the manufacturing community, and can create complications in the permitting process, where there is often no effective way to question or challenge the appropriateness or applicability of the underlying PCS in specific permitting situations. The more valuable role for ORSANCO today is to concentrate on its scientific and technical information gathering and research. This would allow ORSANCO to provide valuable information to the states in carrying out their obligations to preserve and protect water quality under the Clean Water Act. It would also help promote and coordinate consistency among the states in the Ohio River basin.”

Ohio EPA Agency News

Ohio EPA Region 5 has New Administrator

According to a December 19, 2017 press release from the U.S. Environmental Protection Agency (EPA), Administrator Scott Pruitt announced the appointment of Cathy Stepp to become regional administrator for Region 5, which includes Indiana, Illinois, Michigan, Minnesota, Ohio and Wisconsin.

“Cathy Stepp currently serves as a principal deputy regional administrator for Region 7 and will return to the Midwest region where she previously served as the secretary of the Wisconsin Department of Natural Resources from 2011 to 2017. While serving as a state cabinet secretary, Cathy lead the third largest agency in the state with about 4,000 employees and was responsible for state enforcement and protection of: wildlife, fisheries, state parks, trails, forests, and environmental permitting,” per the release.

Also according to the release, Ohio EPA Director Craig Butler said: “I am very pleased that Cathy Stepp will be the USEPA region 5 administrator. She is a strong leader with proven state experience. She knows how to get things done and I look forward to working closely with her.”

OMA is working to secure Administrator Stepp for a meeting this summer.

Ohio Materials Marketplace

The Ohio EPA continues to invite OMA members to participate in its newly launched Ohio Materials Marketplace with the objective to advance Ohio towards a circular material economy.

The free online platform enables Ohio businesses to list by-product and waste materials, as well as post requests for desired materials. The Materials Marketplace aims to assist manufacturers and other businesses in advancing their zero-landfill goals, decreasing greenhouse gas emissions, and reducing material and waste management costs.

Raw materials, by-products, and massive volumes are welcomed. Materials can range from computer monitors to waste paper to clay.

Ohio Manufacturers Meet with U.S. EPA Region V

The OMA with several other business organizations partnered with the law firm Steptoe and Johnson to set up a manufacturers' meeting with U.S. EPA Region V and Ohio EPA senior management.

Representatives of U.S. EPA and Ohio EPA will provided updates on recent developments in all major program areas and conducted a robust question and answer session with the companies present. OMA is working to make this an annual event.

Gov. John Kasich wants to crack down on phosphorus runoff that feeds Lake Erie algal blooms

Updated May 16; Posted May 16

By Jackie Borchardt, cleveland.com jborchardt@cleveland.com

COLUMBUS, Ohio -- Gov. John Kasich said he plans to issue an executive order if state lawmakers won't limit fertilizer use in certain parts of the state that contribute to problematic phosphorus and nitrate runoff in Lake Erie.

The Ohio General Assembly in 2015 restricted manure and fertilizer application on snow-covered or wet ground in the western basin of Lake Erie with exceptions such as injecting it into the ground or applying it on a cover crop. Another law required large farm owners to obtain a certification in properly applying fertilizer.

Kasich, speaking to Ohio newspaper publishers Wednesday, said he was disappointed the legislature hasn't acted to further restrict fertilizer application, which directly contributes to algal blooms in Lake Erie. Kasich said he's working with the Ohio Department of Agriculture to identify areas in the basin that could make the biggest impact in reducing runoff. Kasich said the agency has seen its role as siding with farmers.

Kasich said he supports farmers, too, but something should be done to address the minority of farmers who pollute the lake. Kasich spokesman Jim Lynch said an executive order is in the works, but the details have not yet been determined.

"We know it's a phosphorous problem and we know what watersheds are the heaviest contributors of phosphorus, so we're looking at what we can do from an executive perspective," Lynch said.

Ohio Farm Bureau spokesman Joe Cornely said there's no argument fertilizer nutrients contribute to algal blooms, but additional regulations are premature until research shows what types of nutrients are leaving farm soil and their effect on the problem.

"Until we know those things, we're unconvinced another set of regulations layered on top of things will be of any benefit," Cornely said in an interview. "We're not saying go slow, we're saying be smart."

Cornely said farmers follow rules from several regulating authorities as well as voluntarily seek innovative ways to reduce runoff.

"We've gotten into this situation from decades of changes in agriculture," Cornely said. "We're not going to be able to fix a problem like that or agriculture's piece of the problem in a fashion where things get done overnight."

Kasich's comments came as he tried to set the record straight about comments he made last week in Michigan. News reports stated Kasich didn't think Lake Erie should be deemed "impaired," but Kasich clarified that he was referring to the middle of the lake.

The Ohio Environmental Protection Agency earlier this year designated the western basin of the lake "impaired," after years of resisting environmentalists' calls for the label.



May 22, 2018

The Honorable Ryan Smith
Chair, Finance Committee
Ohio House of Representatives
77 S. High St., 13th Floor
Columbus, OH 43215

RE: House Bill 643 – OMA Written Testimony

Dear Chair Smith:

The Ohio Manufacturers' Association (OMA) appreciates the opportunity to share written proponent testimony regarding House Bill 643.

House Bill 643 provides a thoughtful funding approach to address Lake Erie water quality issues. The bill takes a prudent approach in providing funding resources that will improve the lake's water quality. Ohio manufacturers rely heavily on the lake for a variety of business-supporting reasons and it is imperative that the lake be in the best possible condition to support the portions of Ohio's economy that rely on it.

House Bill 643 provides funding for more research equipment and lab space, for projects that enhance efforts to reduce open lake disposal of dredged materials, and funding that tackles the ever growing issue of phosphorus discharge in the lake. These dollars will help ensure that Ohioans will be able to rely on Lake Erie for generations to come for drinking, recreation, travel, and commerce.

Thank you for the opportunity to comment on House Bill 643.

Sincerely,

Robert Brundrett
Director, Public Policy Services



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Amanda George and Tom Wert

H.B. 643

132nd General Assembly
(As Introduced)

Reps. Arndt and Patterson, Schuring, Reineke, Hill, Gavarone, Stein, Manning, Hoops, West

BILL SUMMARY

Allowable uses of money in the Parks and Recreation Improvement Fund

- Allows equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the existing Parks and Recreation Improvement Fund, which may currently be used only for the following purposes:
 - Paying costs of capital facilities for parks and recreation under the jurisdiction of the Department of Natural Resources; and
 - For participation in capital facilities for parks and recreation with the federal government, municipal corporations, counties, or other governmental agencies.

Additional appropriations for Lake Erie water quality programs

Main Operating Budget Act

- For fiscal year 2019, appropriates an additional \$3.5 million (for a total of \$6.8 million) to the Soil and District Water Support Fund for the Department of Agriculture in the main operating budget.
- Earmarks that additional amount to support county soil and water conservation districts in the Western Lake Erie Basin for staffing costs and to assist in soil testing and nutrient management plan development.

Capital budget funding

Department of Higher Education – Sea Grant–Stone Laboratory

- Appropriates \$2.65 million to the Higher Education Improvement Fund for the Sea Grant–Stone Laboratory in the capital budget act for the FY 2019-FY 2020 biennium.
- Earmarks the appropriation to be used by the Ohio Sea Grant Program to construct new laboratory space at Stone Laboratory and to buy new in-lake monitoring equipment, including real-time buoys and water treatment plant monitoring sondes.
- Increases the amount of original obligations that the Ohio Public Facilities Commission is authorized to issue and sell by \$2 million, from \$429 million to \$431 million, to pay the costs of capital facilities for state-supported and state-assisted intuitions of higher education.

Department of Agriculture – Soil and Water Phosphorous Program

- Appropriates \$20 million during the FY 2019-FY 2020 capital biennium to the Parks and Recreation Improvement Fund for the Soil and Water Phosphorus Program.
- Requires the Department of Agriculture, in consultation with the Lake Erie Commission and the Ohio Soil and Water Conservation Commission, to establish programs that assist in reducing total phosphorus and dissolved reactive phosphorus in sub-watersheds of the Western Lake Erie Basin.
- Requires priority to be given to sub-watersheds that are highest in total phosphorus and dissolved reactive phosphorus nutrient loading.
- Requires that the \$20 million appropriation be used to support the programs described above through the purchase of equipment, including but not limited to, the following:
 - Equipment for subsurface placement of nutrients into the soil;
 - Equipment for nutrient placement based on geographic information system data;
 - Equipment for soil testing;
 - Equipment for implementing variable rate technology;
 - Equipment for implementing manure transformation and manure conversion technologies;

- Tributary monitoring equipment; and
- Water management and edge-of-field drainage management equipment.
- Increases the amount of original obligations that the Treasurer of State is authorized to issue and sell by \$20 million, from \$119 million to \$139 million, to provide sufficient money to pay costs of capital facilities and equipment for parks and recreation purposes and protection or preservation of Lake Erie and its tributaries.

Department of Natural Resources – Healthy Lake Erie Initiative

- Increases appropriations under Ohio Parks and Natural Resources Fund by \$10 million for a total of \$20 million for the FY 2019-FY 2020 capital biennium.
- Earmarks this additional amount to support projects that enhance efforts to reduce open lake disposal of dredged material into Lake Erie by 2020.
- Increases the amount of original obligations that the Ohio Public Facilities Commission is authorized to issue and sell by \$10 million, from \$24 million to \$34 million, to provide sufficient money to pay costs of capital facilities that enhance the use or enjoyment of Ohio's natural resources.

HISTORY

ACTION	DATE
Introduced	05-09-18

H0643-I-132.docx/ts



Environment

OMA Environment Committee Receives Air Update

June 1, 2018



This week manufacturers gathered at the OMA to attend an Environment Committee meeting, which included networking plus lunch on the OMA.

The committee's agenda included an update on possible phosphorus legislation and discussion with Ohio EPA regarding permit process improvements.

Ohio Air Chief Bob Hodanbosi presented his popular annual Ohio **air update** for the members.

State Rep. **Steve Arndt** (R-Port Clinton) came by to discuss what is going on in the General Assembly and to tell members about his recently introduced bill, **House Bill 643**, a plan to deal with Lake Erie algal blooms. *5/31/2018*

Bob Hodanbosi & Erica Engel-Ishida, OH EPA Div. of Air Pollution Control, update OMA Environment Committee members.

Materials Marketplace has Diverted 3 Million Pounds from Landfill

June 1, 2018

The Ohio Materials Marketplace is a free online platform of the Ohio EPA that enables businesses and organizations to connect and find reuse and recycling solutions for waste and by-product materials.

- New materials have been added to the marketplace including: limestone screenings, industry safety fencing, water treatment residuals, and more.
- 739 members are now on the Marketplace.
- The Marketplace has helped divert about 1,696 tons (3,391,290 pounds) from the landfill.

Learn **more here**. *5/31/2018*

OMA Testifies in Support of Lake Erie Water Improvement Funding Bills

May 25, 2018

This week the OMA **testified in support** of Senator **Randy Gardner**'s and Rep. **Steve Arndt**'s bipartisan Clean Lake 2020 bills. The companion bills, **Senate Bill 299** and **House Bill 643**, which propose funding resources for Lake Erie water quality improvements, had their second hearings in the House and Senate Finance Committees.

The OMA testified to both committees that the proposal is "a thoughtful funding approach to address Lake Erie water quality issues. The bill takes a prudent approach in providing funding resources that will improve the lake's water quality. Ohio manufacturers rely heavily on the lake for a variety of business-supporting reasons and it is imperative that the lake be in the best possible condition to support the portions of Ohio's economy that rely on it."

The bills are in stark contrast to Ohio EPA-sponsored bills that would put draconian limits on point source discharges.

Join the **OMA Environment Committee on May 31**; Rep. Arndt will be speaking to members about his bill and the state's phosphorus issues. *5/24/2018*

OMA Weighs in on Federal Water Issue

May 25, 2018

This week the OMA **submitted formal comments** to U.S. EPA regarding whether pollutant discharges from point sources that

reach jurisdictional surface waters via groundwater, or other subsurface flow that has a direct hydrologic connection to jurisdictional surface waters, may be subject to regulation under the Clean Water Act (CWA).

In its comments the OMA requested that “U.S. EPA undertake a notice-and-comment rulemaking to clearly implement the Clean Water Act, which does not regulate nonpoint sources in the National Pollutant Discharge Elimination System (NPDES) program.”

OMA wrote: “The resulting rule would provide regulatory certainty for the agency, states, dischargers, courts, and the public. The rulemaking should: (1) reject the “hydrologic connection theory”; (2) confirm that the “hydrologic connection theory” was not based on a thorough analysis of CWA; and (3) endorse a plain language interpretation of the statute.” 5/24/2018

Kasich Mulls Executive Action on Phosphorus

May 18, 2018

With the Ohio EPA’s phosphorus bill still lacking a sponsor, Gov. John Kasich made waves this week discussing a potential executive order action to move forward on phosphorus regulation.

The Cleveland Plain Dealer **reported** that the governor is considering issuing an executive order if the General Assembly will not limit fertilizer use in parts of the state that heavily contribute to the phosphorus flow into Lake Erie.

As of now it looks like the governor is focused strictly on fertilizer and agriculture and not on industrial point source discharge. However, this is a new twist in the ongoing phosphorus saga that manufacturers will carefully watch as the governor’s final term nears its end. 5/17/2018

Bipartisan Water-Phosphorus Bills Have First Hearings

May 18, 2018

The bipartisan water bills targeting the phosphorus discharges in Lake Erie had their first hearing in their respective chambers this week. **Senate Bill 299** and **House Bill 643** each enjoyed sponsor testimony.

In the Senate, Senators Randy Gardner and Sean O’Brien each presented sponsor testimony (**Gardner testimony** and **O’Brien testimony**). The House heard **sponsor testimony** from Reps. Steve and John Patterson.

The bills are heavily based on a white paper entitled, “**Summary of Findings and Strategies to Move Toward a 40% Phosphorous Reduction**” from 2017. The bills are not regulatory bills but are instead targeted funding solution bills providing both general revenue funding and capital funding for a variety of strategies that scientists, Lake Erie advocates, agriculture leaders, and others believe can help achieve Ohio’s phosphorus reduction goals.

A reduction of phosphorus loading by 40% by 2025, and an aspirational goal of 20% by the year 2020, are the stated targets. 5/17/2018

Long Awaited Clean Lake 2020 Plan Introduced

May 11, 2018

Two bipartisan **companion bills and resolutions were introduced** this week to comprehensively address the health of Lake Erie.

The legislation package sponsored in the Senate by Senators **Randy Gardner** (R-Bowling Green) and **Sean O’Brien** (D-Cortland) and in the House by Reps. **Steve Arndt** (R-Port Clinton) and **John Patterson** (D-Jefferson) is aimed to provide millions of dollars to fight and reduce harmful algal blooms in Lake Erie.

The package would include \$36 million in 2018 and \$100 million more per year for ten years if voters approve a Clean Water Bond issue. 5/10/2018

Ohio EPA Offering Webinars of Interest to Manufacturers

May 4, 2018

On May 16, Ohio EPA will present the latest on its construction stormwater permit: **Stormwater Permit Program Update Ohio- EPA’s NPDES Construction Storm Water General Permit Renewal (OHC000005)**.

Then on June 13, Ohio EPA will be holding a webinar on **Universal Waste Rule Updates**.

OMA members were heavily involved in both of these rule rewrites. 5/3/2018

EPA Reforms Continue

May 4, 2018

OMA Connections Partner, Dinsmore, has published this informative **AIR QUALITY Letter**, which provides a range of updates on regulatory changes affecting air quality sources. 5/3/2018

Ohio EPA Finalizes Construction Storm Water General Permit

April 27, 2018

This week Ohio EPA announced the final issuance of the General National Pollutant Discharge Elimination System Permit for Storm Water Associated with Construction Activity.

On the **EPA's website** manufacturers can review the public notice, final general permit, fact sheet, and Ohio EPA's responses to the summary of comments received from interested parties regarding the draft permit.

Thank you to all the members who were actively engaged throughout this process and improved the regulation. 4/26/2018

OMA Members Meet with U.S. and Ohio EPA Leaders

April 23, 2018



Pictured: Ohio EPA Director Craig Butler (right) with Kurt Thiede, Chief of Staff, U.S. EPA, Region V



Pictured: Members of U.S. EPA Region V staff

In a meeting this week with representatives of U.S. EPA Region V and Ohio EPA, participating OMA members heard updates on recent developments in all major program areas, and participated in a Q & A session with the agency staff members.

Top leaders of U.S. EPA Region V and Ohio EPA participated in the meeting, including the Region V Chief of staff Kurt Thiede and Ohio EPA Director Craig Butler.

The meeting in Chicago gave manufacturers a better look at the cooperation and the priorities of U.S. EPA and Ohio EPA. Issues discussed included air, water, land, and superfunds.

Members were given the opportunity to ask the regulators questions and nothing was off the table. Members who participated really enjoyed the morning, and the OMA will look to continue with our partners to offer this type of event each year. 4/19/2018

Ohio EPA Updates Findings on Sources of Nutrients in Ohio Waters

April 23, 2018

The Ohio EPA has completed its **second statewide study** which identifies sources and estimates the annual amount of phosphorus and other nutrients flowing from the state's watersheds into Lake Erie and the Ohio River. The study covers the Maumee, Portage, Sandusky, Vermilion, Cuyahoga, Great Miami, Scioto and Muskingum watersheds, and includes some direct tributaries to Lake Erie.

The results of this study show “no clear trend of an overall decrease in loading in most watersheds, especially in nonpoint source dominated watersheds like the Maumee where the loading in 2017 was the highest of the years reported.”

In the Maumee watershed, 88% of the phosphorous contributed to Lake Erie is from nonpoint sources including agriculture. *4/17/2018*

Manufacturers Head Off Environmental Reg Overreach

April 13, 2018

A working group of OMA members, allied with a few other interests, has succeeded in heading off an Ohio EPA regulatory overreach on phosphorus. For now.

See the full description of the EPA proposal **here**.

Most notable in the regulatory overreach are: a 1.0 mg/L cap on phosphorous, expanding the definition of "fertilizer" as agricultural pollution, civil penalties for odor nuisances, and redefining the state discharge level to protect water quality.

Contact **Rob Brundrett** for more information on this matter. *4/11/2018*

OMA Files Comment with Ohio EPA re. Storm Water Draft Permit

April 6, 2018

This week the OMA **filed a detailed letter** with the Ohio EPA to express concerns with the agency's draft permit: General Permit Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System (NPDES).

The OMA wrote: "The proposed changes encompassed in the draft permit would fundamentally change how this permit currently operates ... Moreover, the changes would create state requirements that are substantially different than the federal requirements. ... The draft permit not only requires the protection of storm water quality during the construction phase of projects, but now also attempts to control engineering and site hydrology both during and after (into perpetuity) all construction, resulting in a substantially increased burden on permittees. Further explanation and clarity is needed with these changes, to allow permittees to understand Ohio EPA's expectations and intent."

The OMA also **filed joint comments** with several other trade associations representing a multitude of impacted industries.

OMA's contact for this issue is **Rob Brundrett**. *4/3/2018*

Ohio EPA Phosphorus Bill Shelved

April 6, 2018

Two weeks ago Ohio EPA Director Craig Butler announced his intent to have **legislation introduced** that would, among other things, place a statewide phosphorus limit of 1 mg/L on direct dischargers.

The OMA's phosphorus working group has been working with legislators and experts on this issue since last summer.

Earlier this week Rep. Steve Arndt (R-Port Clinton), who was thought to be the lawmaker to introduce the legislation, had this to say about the proposed EPA bill: "I plan on introducing legislation, but probably not in the form of the draft the Ohio EPA has provided me. I've been meeting with a number of interested parties, because this is much broader in scope than what I originally discussed with Ohio EPA. I think they have merit, some of the issues we're discussing, but obviously as currently written there will be some strong opposition. I think there is a pathway for us to properly address it."

This is good news for OMA members who will be impacted either through their own permits or as indirect dischargers.

The OMA work group was very active in derailing the EPA version. Thank you to the members who have donated time and expertise to this important issue. *4/5/2018*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on June 4, 2018

- HB29** **MUNICIPAL WATER RESERVOIR BUFFERS** (LELAND D, BOGGS K) To eliminate law authorizing the maintenance of buffers around municipal water reservoirs by contiguous property owners.
Current Status: 4/25/2017 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-29>
- HB62** **WATER QUALITY IMPROVEMENT** (PATTERSON J, SHEEHY M) To require the Director of Agriculture to adopt rules establishing the Ohio Water Quality Improvement Program, to exempt land enrolled in the Program from taxation, and to reimburse local taxing units for revenue lost due to that exemption.
Current Status: 5/10/2017 - House Agriculture and Rural Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-62>
- HB85** **ENTER HEALTH CARE COMPACT** (RETFERFORD W) To enter into the Health Care Compact.
Current Status: 5/15/2018 - **REPORTED OUT**, House Federalism and Interstate Relations, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-85>
- HB225** **ABANDONED WELL REGULATION** (THOMPSON A) To allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well.
Current Status: 5/23/2018 - **PASSED BY SENATE**; Vote 32-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-225>
- HB393** **OIL AND GAS BRINE SALES** (DEVITIS A, O'BRIEN M) To authorize a person to sell brine derived from an oil and gas operation that is processed as a commodity for use in surface application in deicing, dust suppression, and other applications.
Current Status: 5/15/2018 - **REPORTED OUT AS AMENDED**, House Energy and Natural Resources, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-393>
- HB463** **SOLID WASTE DISPOSAL FEE INCREASE** (LATOURETTE S) To increase one of the state fees levied on the transfer or disposal of solid waste in Ohio, the proceeds of which are deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.
Current Status: 1/30/2018 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA132-HB-463](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-463)

- HB562 HORIZONTAL DRILLING-PARKS (LELAND D)** To prohibit the drilling of a horizontal well in various state and local parks
Current Status: 4/10/2018 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-562>
- HB578 INJECTION WELL SETBACKS/FEES (HOLMES G, O'BRIEN M)** To establish new setback requirements applicable to new Class II injection wells and to require thirty-seven and one-half per cent of the out-of-district injection well fee to be paid directly to the municipal corporation or township in which the injection well is located.
Current Status: 4/10/2018 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-578>
- HB643 LAKE ERIE PRESERVATION EQUIPMENT (ARNDT S, PATTERSON J)** To allow equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the Parks and Recreation Improvement Fund and to appropriate funds for projects enhancing water quality in the Western Lake Erie Basin.
Current Status: 5/23/2018 - House Finance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-643>
- HB655 FERTILIZER APPLICATION RATES (SHEEHY M)** To generally require the application of fertilizer in the western Lake Erie basin to be applied onto an actively farmed field at the agronomic rate, and to require the application of manure in the western Lake Erie basin to be applied onto an actively farmed field at either the agronomic rate or while utilizing specified best available technologies.
Current Status: 5/15/2018 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-655>
- HCR4 ELIMINATE E-CHECK REQUIREMENT (YOUNG R)** To urge Congress to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program, to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if Congress fails to act, and to encourage OEPA to explore alternatives to E-Check.
Current Status: 5/9/2017 - House Federalism and Interstate Relations, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-4>
- HCR25 WESTERN LAKE ERIE PROTECTION (FEDOR T, SHEEHY M)** To urge the Administrator of the United States Environmental Protection Agency to declare the open waters of Western Lake Erie as impaired pursuant to the federal Clean Water Act.
Current Status: 3/20/2018 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-25>

- HJR16** **CLEAN WATER BONDS** (ARNDT S, PATTERSON J) To permit the issuance of general obligation bonds to fund clean water improvements.
Current Status: 5/15/2018 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-16>
- SB2** **ENVIRONMENTAL PROTECTIONS LAWS** (HITE C) To revise specified laws relating to environmental protection.
Current Status: 7/7/2017 - **SIGNED BY GOVERNOR**; eff. 10/6/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-2>
- SB50** **WELL INJECTION-PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-50>
- SB53** **NATURAL GAS RESTRICTION** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-53>
- SB228** **WASTE FEE INCREASE** (EKLUND J, SKINDELL M) To increase one of the state fees levied on the transfer or disposal of solid waste in Ohio, the proceeds of which are deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.
Current Status: 11/29/2017 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-228>
- SB299** **LAKE ERIE PROTECTION APPROPRIATIONS** (GARDNER R) To allow equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the Parks and Recreation Improvement Fund, and to appropriate funds for projects enhancing water quality in the Western Lake Erie Basin.
Current Status: 6/5/2018 - Senate Finance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-299>
- SB303** **AGRICULTURAL OPERATION AND MANAGEMENT** (BROWN E) To revise the law governing agricultural operation and management plans, and to require certain animal feeding facilities to annually report the amount of manure that is applied by or for the facilities.
Current Status: 5/29/2018 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-303>

- SB304 LAKE ERIE-FERTILIZER APPLICATION** (BROWN E, YUKO K) To generally require the application of fertilizer in the western Lake Erie basin to be applied onto an actively farmed field at the agronomic rate, and to require the application of manure in the western Lake Erie basin to be applied onto an actively farmed field at either the agronomic rate or while utilizing specified best available technologies.
Current Status: 5/29/2018 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-304>
- SJR4 CAPITAL IMPROVEMENTS FUNDING** (SCHIAVONI J) Proposing to enact Section 2t of Article VIII of the Constitution of the State of Ohio to permit the issuance of general obligation bonds to fund sewer and water capital improvements.
Current Status: 9/6/2017 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SJR-4>
- SJR6 CLEAN WATER BONDS** (GARDNER R, O'BRIEN S) If adopted by a majority of the electors voting on this proposal, Section 2t of Article VIII of the Constitution of the State of Ohio shall take effect immediately.
Current Status: 5/10/2018 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SJR-6>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Report
Date: June 6, 2018

Overview

The General Assembly has stalled on major human resources bills mainly due to outside influences. Governor Kasich recently proposed new restrictions for firearms in Ohio, developed from a selected working group of Second Amendment supporters. The bill has met fierce resistance from gun rights groups. Unemployment compensation legislation remains a favorite talking point for elected officials; however current legislation is not supported by the business community.

General Assembly News and Legislation

House Bill 2 – employment discrimination reform

Representative Bill Seitz (R-Cincinnati) proposes to comprehensively overhaul Ohio's employment discrimination statutes in a manner that would benefit employers and bring Ohio's laws more in line with federal discrimination laws, but would continue to provide individuals avenues to assert state law discrimination violations.

After numerous hearings and amendments, House Bill 2, a bill aimed at mirroring Ohio's civil rights law with the federal law, was voted out of the House Economic Development, Commerce and Labor Committee along party lines.

Opposition to the bill from the Ohio Civil Rights Commission, the Ohio Association of Justice, and others was dropped after a new sub bill was adopted.

The OMA and other business organizations were supportive of the bill and its purpose. Opponents previously argued the bill would weaken workplace protections.

The latest version of the bill made two prominent changes: language requiring an individual to file a charge of discrimination before the Ohio Civil Rights Commission before filing a lawsuit and extending the statute of limitations for such claims to two years.

The bill is waiting for a full House vote. The bill appears most likely headed to lame duck for potential action.

House Bill 53 – Public Employee Unions

House Bill 53 was introduced by Rep. John Becker (R-Union Twp.). The bill removes any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization. The bill also prohibits public employers from requiring public employees to join or pay dues to any employee organization and prohibits an employee organization from being required to represent public employees who are not members of the employee organization. The bill has not received a hearing.

House Bill 160 – Ohio Fairness Act

The bill prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights

Law. This bill has received two hearings in the House and has wide support from a ranging group of stakeholders. The OMA is supportive of the bill.

House Bill 187 – Employee Hiring Information

The bill regulates the collection, use, and retention of certain information obtained from an applicant during the employee selection process. The bill places burdens on employers and potentially opens them up to lawsuits. The House has held several hearings but none since last September.

House Bill 233 – Handgun Decriminalization-Leaving Upon Request

The bill would enact the "Decriminalization Effort For Ending Notorious Deaths (DEFEND)" to provide an opportunity for a concealed handgun licensee or qualified military member to avoid guilt for carrying a concealed handgun into a prohibited place if the person leaves upon request, and to penalize as disorderly conduct failing to leave upon request or returning with a firearm.

The bill originally intended to protect those who mistakenly bring weapons into prohibited areas now provides a carve-out for a concealed handgun licensee or a qualified military member who ignores posted signs prohibiting persons from carrying firearms onto the land or those premises. The bill takes away a manufacturer's ability to keep firearms off of its property, even if a sign prohibiting the carrying of a firearm is posted in a conspicuous area.

The bill was passed quickly through the House of Representatives despite opposition from the OMA and other business groups. The Senate has yet to schedule a hearing.

Senate Bill 251 and House Bill 497 – "Revenge" Bill

This month the House held its first hearing on House Bill 497, which, along with its Senate companion Senate Bill 251, prohibits the nonconsensual dissemination of private sexual images. The two bills are designed to close a loophole in Ohio law that allows individuals to knowingly disseminate private images, without consent of the victim, with a purpose to harm the person in the images.

In their joint testimony Reps. John Rogers (D-Mentor on the Lake) and Nathan Manning (R-North Ridgeville) outlined the provisions of the bill including criminal penalties and employment protections. Employment protections include prohibiting an employer from firing, or failing to hire, an individual because of their victim status; requiring an employer to make "reasonable accommodations" to the victim; requiring an employer to give a victim unpaid leave; and, creating a civil action against an employer for failing to follow the bill's employer requirements.

The House made changes to the bills to ensure that businesses are not burdened unduly.

House Bill 382 – Unemployment Compensation Revisions

Representative Schuring introduced a new attempt to solve the state's unemployment compensation problems in October. The new bill is a product of the discussions that Representative Schuring and Senator Peterson oversaw during the past year between interested parties including the OMA. Representative Schuring introduced the bill without the support of any of the interested parties but wanted a starting point to discuss solutions in the committee. The bill would raise employers taxes, cut the number of weeks an employee can receive compensation, require an employee co-pay and temporarily freeze benefits.

Representative Schuring also introduced HJR 4 which would allow the state to bond any future borrowing from the federal government. This would provide the state a new option when paying back any future debts. This resolution would need to be approved by Ohio's voters.

The OMA and its business community allies submitted a letter in opposition of House Bill 382 but in favor of the HJR 4. The bill and resolution have had 20 hearings in the House committee. In only three of those hearings has the committee received any testimony of any sort.

Employers should be prepared for a small increase in unemployment tax increase in Ohio. The legislature passed a law that temporarily increased Ohio's tax base rate from \$9,000 to \$9,500 per employee.

House Bill 424 – Substance Recovery for Workforce

The bill enacts the "Substance Recovery and Workforce Improvement Act" regarding drug testing and eligibility for unemployment compensation benefits. The bill was introduced in November and has received one hearing as of today.

House Bill 450 – Health Insurance Mandated Benefits

Earlier this year the OMA submitted proponent testimony on House Bill 450, legislation that would curb costly new state-driven health care mandates.

In testimony the OMA noted three protections in the bill for employers: "First, it prohibits the enactment of future mandated benefits unless qualifying conditions are met. This means that only the most relevant mandates will be allowed in the future.

"Second, requiring the Superintendent of Insurance to conduct an actuarial study on the cost of existing mandated health insurance benefits and compiling a list of all existing mandates will help determine the true costs of these mandates on manufacturers and all Ohio employers.

"Finally the creation of the Health Care Mandated Benefits Review Committee, which will have responsibility for reviewing and reporting on existing mandated benefits, will provide data to help inform the financial consequences of mandates on the populations that fund them."

The bill just had its fourth committee hearing.

House Bill 512 – Consolidate Career-Education Governance

The bill establishes the Department of Learning and Achievement. Essentially it abolishes the current Department of Higher Education, Department of Education and Governor's Office of Workforce Transformation. These entities will now be run through the Department of Learning and Achievement. The House has described the move as a way to better coordinate workforce preparation. The bill has had several hearings in the House and remains a priority by the Speaker. The Senate has announced some reservations regarding the realignment.

At its March meeting the OMA Board of Directors considered the merits of House Bill 512, The OMA board issued this statement on House Bill 512:

"The accountability system for education and workforce development is clearly fragmented. Any disjointed accountability system can contribute to redundancies and waste, disjointed goals and metrics, and a misalignment of strategy and operations.

“The integration proposed by House Bill 512 is intended to repair this fragmented accountability system. For that reason, the OMA Board of Directors supports the bill.

“However, manufacturers know from experience that organizational integrations are hard work. Simply changing organizational structure does not assure achievement of desired organizational outcomes, or even improvement.

“To be successful, integration needs to be accompanied by establishment of clear goals and effective metrics, development of organizational culture, and deployment of management systems that engage stakeholders and drive toward results. The OMA Board of Directors encourages the sponsors of House Bill 512 to attend to these elements of success that should accompany structural reform for the benefit of all stakeholders, including students and their families, educators, the community and its employers.”

House Bill 551 – Minors – Hazardous Occupations

Legislation has been introduced to allow 16- or 17-year old minors to operate machinery in construction or manufacturing occupations provided specified training is completed beforehand.

House Bill 551 is jointly sponsored by Reps. Rick Perales (R-Beavercreek) and Mark Romanchuk (R-Mansfield). The pair said in sponsor testimony, “By providing meaningful employment and career exploration to young adults interested in manufacturing and construction, a new generation of workers can ultimately receive training for Ohio’s in-demand workforce.” OMA is supportive of the bill.

Medical Marijuana

On September 8th, Ohio’s medical marijuana program goes live. That is the first day that individuals can go to a dispensary in Ohio and buy medical marijuana if they have a recommendation from a doctor. The new dispensaries were announced this week. Employers need to be prepared with their policies regarding medical marijuana use and their employees.

Kasich Creates Office of Opportunities for New Americans

In May Gov. John Kasich announced the creation, by executive order, of the Office of Opportunities for New Americans and New Americans Advisory Committee to help legal immigrants more successfully become part of Ohio and find job opportunities in the state.

The new office, which will be housed within the Ohio Development Services Agency, was created to help to ensure legal immigrants successfully integrate into communities by breaking down barriers in state government to improve workforce development opportunities.

The 12-member advisory committee will be named and will include members who presently engage new immigrant populations in the private-sector, non-profit community and government.

A new website has been created to help new immigrants better navigate various state programs.

Workforce Services

OMA Priorities for Systems Change in Workforce Development

The OMA recently published Workforce Roadmap: Priorities for Systems Change in Workforce Development, which documents its workforce services strategy and action steps to facilitate skill development and talent acquisition among Ohio manufacturers.

Key action steps of the roadmap include:

- Through technical assistance and best practices sharing, increase industry champions' and industry sector partnerships' abilities to drive systems change.
- Amplify the voice of manufacturers with lawmakers and public officials.
- Leverage the Making Ohio brand image assets to elevate awareness and interest in manufacturing careers.
- Increase public/private collaborations to train and educate the manufacturing workforce of tomorrow.

The OMA continues to travel the state promoting industry sector partnerships and helping manufacturers throughout the state's different regions stand up such partnerships.

If you'd like to be kept apprised of OMA's workforce service offerings and updates, you can easily subscribe to the Workforce Community at My OMA or send an email with your contact information and email address.

OMA Workforce Summit 2018

Workforce challenges are among Ohio manufacturers' most pressing issues.

Save the date for Ohio Manufacturers' Workforce Summit 2018 on Thursday, November 1. This statewide convening of manufacturers and their critical workforce suppliers will help manufacturers and their workforce partners to:

- Learn about successful regional manufacturers' workforce partnerships
- Hear about best practices and initiatives underway across Ohio and how those might align with your requirements
- Access tools and resources that help support regional workforce development
- Network and socialize with others, like you, who are making a difference!



THE OHIO COUNCIL OF

Retail Merchants



NFIB

The Voice of Small Business.®

November 1, 2017

The Honorable Louis W. Blessing III
Chairman
Government Accountability and Oversight Committee
Ohio House of Representatives
77 S. High St., 13th Floor
Columbus, OH 43215

Dear Chairman Blessing:

As many in the legislature are aware, Ohio's unemployment insurance (UI) system is broken. The Ohio Unemployment Insurance Trust Fund, which is currently funded entirely by employers and pays out benefits to qualifying jobless workers remains in a perilous position. This instability creates a threat to economic development in the state. Most critically, Ohio's UI Trust Fund is projected to go insolvent in the next economic downturn unless the state acts to better align benefits with contributions to build a balance. Thus, reforms are urgently needed to update and strengthen Ohio's UI program for the benefit of Ohio's employers, employees and economy.

While we appreciate the leadership taken by Representative Schuring in tackling this issue, our organizations cannot support House Bill 382 in its current form. However, we do view the bill as a forum to continue discussions regarding solutions needed to address Ohio's UI issue.

In addressing this important issue, we believe in the following principles:

- Any workable solution must address both spending and revenue to balance the cost of benefits with employer contributions and simply pouring more money into the system without addressing benefits undercuts Ohio's job-creating economic competitiveness;
- Fundamental changes should take place in the near-term, prior to the next economic downturn when the situation will be even more dire and a resolution even more difficult to craft;
- We are opposed to any employee tax and, with it, the administrative costs and burdens such a tax would bring upon all parties; and

- Any potential solution must be compliant with the U.S. Department of Labor to ensure Ohio's businesses continue to receive the Federal Unemployment Tax credit.

We remain committed to working with Representative Schuring and will continue to offer ideas and solutions to address the system's solvency.

Meanwhile, we believe that House Joint Resolution 4 is an important piece of any solvency package in that it allows the state maximum flexibility if required to borrow federal funds to support the UI system in the future. Our organizations have long supported bonding as a helpful option when dealing with UI insolvency.

We appreciate the transparent and collaborative process of Representative Schuring as he works with interested parties to tackle this tough issue. Please feel free to contact any of the undersigned organizations with questions.

Sincerely,



Roger R. Geiger
Vice President & Executive Director
National Federation of Independent
Business



Adam Sharp
Executive Vice President
Ohio Farm Bureau



Andrew E. Doehrel
President & CEO
Ohio Chamber of Commerce



Eric L. Burkland
President
The Ohio Manufacturers' Association



Gordon Gough
President & CEO
Ohio Council of Retail Merchants

CC: Speaker Rosenberger
Representative Schuring



February 27, 2018

The Honorable Louis W. Blessing III
Chairman, Government Accountability and Oversight Committee
Ohio House of Representatives
77 S. High St., 13th Floor
Columbus, OH 43215

RE: House Bill 450 – OMA Proponent Written Testimony

Dear Chairman Blessing:

The OMA has historically opposed health insurance-related mandates because they increase cost and limit flexibility for employers that seek to provide health care plans to their employees. Our position has been to allow the market, not the government, to drive the features and benefits of health care insurance products. With the passage of the Affordable Healthcare Act and increased mandates from both Washington and Columbus, employee health insurance plans are straining the employers who offer them due to high and escalating costs.

The OMA supports House Bill 450 as an effort toward reining in newly proposed state health care mandates. This bill takes several proactive steps to address the issue of costly new mandates.

First, it prohibits the enactment of future mandated benefits unless qualifying conditions are met. This means that only the most relevant mandates will be allowed in the future.

Second, requiring the Superintendent of Insurance to conduct an actuarial study on the cost of existing mandated health insurance benefits and compiling a list of all existing mandates will help determine the true costs of these mandates on manufacturers and all Ohio employers.

Finally the creation of the Health Care Mandated Benefits Review Committee, which will have responsibility for reviewing and reporting on existing mandated benefits, will provide data to help inform the financial consequences of mandates on the populations that fund them.

We thank Representative Antani for his sponsorship and would be happy to work with the committee to address any questions the members may have.

An affordable health care system is essential to protect Ohio manufacturers' most valuable asset, their workforces. This proposed legislation would help monitor and

check the ever increasing burden on manufacturers and employers regarding health insurance flexibility and cost transparency.

For these reasons, we urge your support for House Bill 450.

Thank you for considering our position. I am available for further discussion. My contact information is rbrundrett@ohiomfg.com or (614) 629-6814.

Sincerely,



Robert Brundrett
Director, Public Policy Services

Industry Sector Partnerships are a proven workforce development strategy that put employers in the driver’s seat and have demonstrated effectiveness across the country. Manufacturers within a regional labor market work together to influence alignment around common solutions with education and training, economic and workforce development, and community organizations.

EFFECTIVE INDUSTRY SECTOR PARTNERSHIPS:

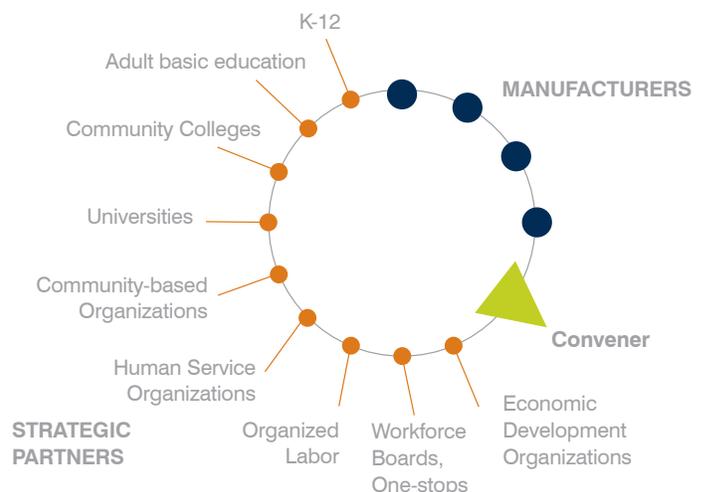
- **Identify common issues**, challenges and opportunities across individual employers;
- **Collectively** address the priority needs of industry;
- **Communicate industry priorities** to policy makers and workforce development partners, enabling them to design responsive solutions;
- Address current and emerging **skill gaps**, both short- and long-term;
- Provide a means to engage directly with industry **across traditional boundaries**;
- **Better align** programs, education/training curriculum and other resources serving employers and workers.

KEY COMPONENTS:

- **Led by employers** – to ensure the system is truly demand-driven and will lead to better outcomes for individuals
- **Focused on a single industry** – to allow employers to connect with peers from their own industry, identify needs beyond basic workplace skills, and dive deeply into the technical needs of the industry
- **Regional** – to address unique needs of subsectors while reflecting the true dynamics within a regional economy
- **Convened by a neutral intermediary** – to align all relevant partner programs and resources as solutions to identified industry needs

BENEFITS TO MANUFACTURERS:

- Systems change in response to business needs
- Reduced duplication and system inefficiencies
- Maximized resources and services
- Results in more streamlined services
- Helps manufacturers fill jobs more quickly
- Creates a pipeline of future workers
- Builds career pathways with seamless transitions from one educational stepping stone to another
- More powerful voice
- Influence training programs
- Impact policy
- Attract funding
- Mechanism for ongoing feedback loop with various education, training and workforce programs
- Better results (placement, earnings/benefits, retention, productivity)
- Firm-to-firm networking



From the National Governors Association report:
State Sector Strategies Coming of Age: Implications for State Workforce Policymakers



Save the Date for Ohio Manufacturers' Workforce Summit 2018

This year's Summit will be held on Thursday, November 1 at the Greater Columbus Convention Center.

The event will offer resources, tools and support to manufacturers and their workforce partners/suppliers to improve the skills and supply of workers in Ohio's manufacturing industry.

The 2018 Summit is expected to attract 500 or more participants.

Ohio Manufacturers' Workforce Summit 2018

SPONSOR PACKAGES



WHAT: The 2018 Ohio Manufacturers' Workforce Summit

WHEN: Thursday, November 1, 2018

WHERE: Greater Columbus Convention Center

WHO: Expected attendance of 500 Ohio manufacturers; policymakers; K-12, community college and university leaders; economic development professionals; and statewide workforce development suppliers

WHY: The purpose of the event is to provide resources, tools and support to manufacturers and their regional workforce partners/suppliers to improve the skills and supply of workers in Ohio's manufacturing industry.

THANK YOU! Your generous support will help develop and support the appropriately skilled workforce essential to Ohio manufacturing, for now and for the future.

PLATINUM - \$25,000

The Platinum Sponsor will receive:

- Ten (10) complimentary registrations to the Summit
- Opportunity for a company executive to introduce the keynote speaker
- Recognition as Platinum Sponsor during the opening and closing remarks
- Primary placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Primary recognition as Platinum Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Opportunity to display corporate banner near the main stage (company to provide banner, dimensions to be determined by venue)
- Recognition as Platinum Sponsor on free-standing signs at Summit
- Primary placement of your company's logo on the Post-Summit Briefing Report

GOLD - \$15,000

Gold Sponsors will receive:

- Ten (10) complimentary registrations to the Summit
- Recognition as Gold Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Gold Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Opportunity to display corporate banner (company to provide banner, dimensions to be determined by venue)
- Recognition as Gold Sponsor on free-standing signs at Summit
- Placement of your company's logo on the Post-Summit Briefing Report

From a 2017 Summit Participant:

"Well done - I definitely felt an energy was created around the need for the issue of manufacturing/ industry workforce development - we must keep the momentum going!"

- The Mack Iron Works Company

To secure your sponsor package, please contact:

Dan Noreen, Managing Director, Development • The Ohio Manufacturers' Association
dnoreen@ohiomfg.com • (614) 629-6816 • (800) 662-4463

SILVER - \$10,000

Silver Sponsors will receive:

- Ten (10) complimentary registrations to the Summit
- Recognition as Silver Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre and post-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Silver Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Silver Sponsor on free-standing signs at Summit

BRONZE - \$5,000

Bronze Sponsors will receive:

- Five (5) complimentary registrations to the Summit
- Recognition as Bronze Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre and post-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state.
- Recognition as Bronze Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Bronze Sponsor on free-standing signs at Summit

LUNCH SPONSOR - \$10,000

Exclusive or two sponsors @ \$5,000 each

Lunch Sponsors will receive:

- Ten (10 @ \$10,000 level) or Five (5 @ \$5,000 level) complimentary registrations to the Summit
- Recognition as a Lunch Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Lunch Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Opportunity to display corporate banner near the lunch set-up (company to provide banner, dimensions to be determined by venue)
- Recognition as a Lunch Sponsor on free-standing signs near lunch set-up
- Placement of your company's logo on the Post-Summit Briefing Report (for \$10,000 exclusive sponsorship)

BREAKFAST SPONSOR - \$5,000

Breakfast Sponsors will receive:

- Five (5) complimentary registrations to the Summit
- Recognition as Breakfast Sponsor during the opening remarks
- Placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Breakfast Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Breakfast Sponsor on free-standing signs near breakfast set-up

From a 2017 Summit Participant:

"... I brought the Superintendent of our local technical school, RAMTEC coordinator, and our Exec. Director of the Chamber of Commerce and they all three thought it was a good use of their time ..."

– Nissen Chemitec America

AFTERNOON BREAK SPONSOR - \$2,500

Afternoon Break Sponsor will receive:

- Five (5) complimentary registrations to the Summit
- Recognition as Break Sponsor during the closing remarks
- Recognition as Break Sponsor in Summit registration packets
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Break Sponsor on free-standing signs near break set-up

RESERVED TABLE SPONSORS - \$2,000

Limited to 10

Table Sponsors will receive:

- Ten (10) complimentary registrations to the Summit
- Reserved table situated near the front of the ballroom
- Logo printed on table tent
- Company name listed in materials provided to all Summit participants

From a 2017 Summit Participant:

"This was my first OMA conference and the information was valuable and informative. I greatly appreciated learning about what other states were doing in their Workforce initiatives."

– Cincinnati State

Human Resources

“Right to Work” Not on DeWine

Agenda

June 1, 2018

Republican candidate for governor Mike DeWine indicated this week that “right to work” is not on his agenda.

That position is similar to that of Governor Kasich, as well as **several midwest Republican governors who eventually signed “right to work” bills.** *5/31/2018*

Kasich Creates Office of Opportunities for New Americans

May 18, 2018

This week Gov. John Kasich **announced** the creation, **by executive order**, of the Office of Opportunities for New Americans and New Americans Advisory Committee to help legal immigrants more successfully become part of Ohio and find job opportunities in the state. The new office, which will be housed within the Ohio Development Services Agency, was created to help to ensure legal immigrants successfully integrate into communities by breaking down barriers in state government to improve workforce development opportunities.

The 12-member advisory committee will be named and will include members who presently engage new immigrant populations in the private-sector, non-profit community and government.

A new **website** has been created to help new immigrants better navigate various state programs. And, here’s a **fact sheet.** *5/16/2018*

IRS Readjusts HSA Contribution Limit

May 11, 2018

OMA Connections Partner, Bricker & Ecker, **posted:** “In March of this year, the IRS adjusted the 2018 HSA contribution limit for individuals enrolled in family coverage down \$50 from \$6,900 to \$6,850. A little over a month later, the IRS reconsidered the retroactive limit adjustment to the inflation-based calculation and allowed the \$6,900 limit to remain for the entire 2018 tax year. ...

“To view a chart of relevant plan limits for 2018, **click here.**

“Employers should (again) confirm that they are using the correct contribution limits for HSAs and other welfare plans. ...” *5/8/2018*

Statewide Resource Line to Address Ohio Opioid Crisis

May 4, 2018

An addiction nonprofit **has launched** a confidential resource line serving people across Ohio who are struggling with substance use disorder, as well as their loved ones. Addiction Policy Forum (APF) designed the resource to address the growing epidemic affecting tens of thousands across the state.

The Addiction Resource Center line can be reached by dialing 1-833-301-HELP (4357). *5/3/2018*

FDA Seeks Comments on Potential Marijuana Reclassification

April 27, 2018

OMA Connections Partner, Jackson Lewis, posted: “The Food and Drug Administration requested comments in a notice published in the Federal Register on April 9, 2018 concerning the “abuse potential, actual abuse, medical usefulness, trafficking, and impact of scheduling changes on availability for medical use” of five marijuana-related substances: cannabis plant and resin; extracts and tinctures of cannabis; delta-9-tetrahydrocannabinol (THC); stereoisomers of THC; and cannabidiol (CBD). The comments will be considered in preparing a response from the United States to the World Health Organization (WHO)’s request for information regarding “the legitimate use, harmful use, status of national control and potential impact of international control” for each of these substances. ...

“Any change in marijuana’s classification under international drug control treaties may influence the way marijuana is classified in the United States. Employers who are opposed to marijuana legalization should consider submitting comments.”

More **here.** *4/25/2018*

DOL Wage and Hour Division Releases Three Opinion Letters

April 23, 2018

From OMA Connections Partner, Dinsmore: “On April 12, 2018, the U.S. Department of Labor’s (DOL) Wage Hour Division released three opinion letters regarding the legality of certain arrangements under the Family and Medical Leave Act (FMLA), Fair Labor Standards Act (FLSA), and Title III of the Consumer Credit Protection Act (CCPA).

“The first letter addresses a question commonly faced by employers—whether an employee is entitled to compensation for time spent traveling away from the employee’s home community. ...

“The next letter addresses whether a non-exempt employee’s 15-minute rest breaks—when covered under the FMLA because they are certified by a health care provider as necessary due to a serious health condition—are compensable under the FLSA. ...

“The final letter addresses whether certain lump-sum payments are earnings for garnishment purposes ...”

Read **more about these opinion letters here**. *4/19/2018*

Comments Invited on Ambush Election Rule

April 16, 2018

The National Association of Manufacturers (NAM) reminds manufacturers that the comment deadline is approaching on the proposed changes to the union representation election process (the “ambush election” rule).

Comments are due on April 18. The NAM has fashioned substantive coalition comments but urges individual manufacturers to make their voices heard. In particular, manufacturers that have encountered problems since the board finalized its 2014 election rule will want to file comment.

You can file comments online at **Regulations.gov**. *4/11/2018*

Self-Audit & Report Wage Violations

April 6, 2018

The Wage and Hour Division (WHD) of the U.S. Department of Labor is launching a new nationwide pilot program, the **Payroll Audit Independent Determination (PAID) program**. PAID facilitates resolution of potential overtime and minimum wage violations under the Fair Labor Standards Act (FLSA). The program’s primary objectives are to resolve such claims expeditiously and without litigation, to improve employers’ compliance with overtime and minimum wage obligations, and to ensure that more employees receive the back wages they are owed.

Under the PAID program, employers are encouraged to conduct audits and, if they discover overtime or minimum wage violations, to self-report those violations. Employers may then work in good faith with WHD to correct their mistakes and to quickly provide 100% of the back wages due to their affected employees.

WHD will conduct a **public webinar** on Tuesday, April 10, 2018 at 1:00 p.m. Eastern time to provide an overview of the PAID program. *4/4/2018*

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on June 5, 2018

- HB2** **CIVIL RIGHTS EMPLOYMENT LAW (SEITZ B)** To modify Ohio civil rights laws related to employment.
Current Status: 5/9/2017 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Economic Development, Commerce and Labor, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-2>
- HB53** **PUBLIC EMPLOYEES-MEMBER DUES (BECKER J)** To remove any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization, to prohibit public employers from requiring public employees to join or pay dues to any employee organization, to prohibit an employee organization from being required to represent public employees who are not members of the employee organization, and to make an appropriation.
Current Status: 2/14/2017 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-53>
- HB86** **MINIMUM WAGE INCREASE (SMITH K, CRAIG H)** To increase the state minimum wage to ten dollars and ten cents per hour beginning January 1, 2019.
Current Status: 2/28/2017 - Referred to Committee House Economic Development, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-86>
- HB136** **ROAD DESIGNATION-DAVID SEXTON AND GLEN MILLINGER (ARNDT S)** To designate a portion of State Route 61 in Erie County as the "SGT David Sexton Memorial Highway" and a portion of Benton-Carroll Road in Ottawa County as "SGT Glen Millinger Memorial Highway."
Current Status: 4/26/2017 - **REPORTED OUT**, House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-136>
- HB158** **UNEMPLOYMENT COMPENSATION-MILITARY TRANSFERS (PERALES R, CRAIG H)** To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.
Current Status: 3/20/2018 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-158>
- HB160** **OHIO FAIRNESS ACT (ANTONIO N)** To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 1/31/2018 - House Government Accountability and Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA132-HB-160](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-160)

- HB166** **WORKFORCE DEVELOPMENT SYSTEM REVISIONS** (REINEKE W, CUPP B) To revise the laws governing the state's workforce development system, programs that may be offered by primary and secondary schools, certificates of qualification for employment, and the Opportunities for Ohioans with Disabilities Agency, and to designate the first week of May as In-Demand Jobs Week.
Current Status: 3/7/2018 - **SUBSTITUTE BILL ACCEPTED**, House Higher Education and Workforce Development, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-166>
- HB187** **EMPLOYEE HIRING INFORMATION** (DEVER J) To regulate the collection, use, and retention of certain information obtained from an applicant during the employee selection process.
Current Status: 9/20/2017 - House Community and Family Advancement, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-187>
- HB193** **DISCRIMINATION PROTECTION-FLU VACCINE** (HAGAN C) To prohibit an employer from taking an adverse employment action against a person who has not been or will not be vaccinated against influenza.
Current Status: 2/28/2018 - House Health , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-193>
- HB382** **UNEMPLOYMENT COMPENSATION LAW** (SCHURING K) To modify terms describing payments made under the Unemployment Compensation Law, to increase the amount of wages subject to unemployment compensation premiums, to require qualifying employees to make payments to the Unemployment Compensation Insurance Fund, to allow the Director of Job and Family Services to adjust maximum weekly benefit amounts, to reduce the maximum number of benefit weeks, and to make other changes to the Unemployment Compensation Law.
Current Status: 3/21/2018 - House Government Accountability and Oversight, (Twentieth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-382>
- HB424** **SUBSTANCE RECOVERY-WORKFORCE** (WIGGAM S) To enact the "Substance Recovery and Workforce Improvement Act" regarding drug testing and eligibility for unemployment compensation benefits.
Current Status: 2/20/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-424>
- HB477** **ELIMINATE EDUCATION PROGRAMS** (KOEHLER K) To eliminate various provisions and programs related to the Department of Education and the operation of primary and secondary schools.
Current Status: 3/20/2018 - **REPORTED OUT**, House Education and Career Readiness, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA132-HB-477](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-477)

- HB508** **OHIOCORPS PILOT PROJECT** (RYAN S) To establish the OhioCorps Pilot Project and to make an appropriation.
Current Status: 5/10/2018 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-508>
- HB512** **CONSOLIDATE CAREER-EDUCATION GOVERNANCE** (REINEKE W) To establish the Department of Learning and Achievement; to abolish the Department of Higher Education, the position of the Chancellor of Higher Education, and the Ohio Board of Regents; to transfer, with exceptions, the duties regarding the administration of primary and secondary education programs and all duties regarding the administration of higher education programs to the Department of Learning and Achievement; and to prescribe certain duties regarding educator licensure, community school sponsorship, and other education programs for the State Board of Education, Superintendent of Public Instruction, and Department of Education.
Current Status: 3/21/2018 - House Government Accountability and Oversight, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-512>
- HB550** **PAID PARENTAL LEAVE** (BOYD J, BOGGS K) To establish family and medical leave insurance benefits to provide paid leave to allow an individual to address the individual's own serious health condition, to care for a family member, or to bond with a new child and to exempt those benefits from personal income tax.
Current Status: 3/20/2018 - Referred to Committee House Community and Family Advancement
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-550>
- HB551** **MINORS-HAZARDOUS OCCUPATIONS** (PERALES R, ROMANCHUK M) Regarding hazardous occupations prohibited for minors and providing training to certain minors employed in a construction or manufacturing occupation.
Current Status: 5/22/2018 - House Economic Development, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-551>
- HB605** **OVERTIME LAW EXEMPTION** (KELLY B, SMITH K) To raise the salary threshold above which certain employees are exempt from the overtime law.
Current Status: 5/22/2018 - House Economic Development, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-605>
- HB679** **UNEMPLOYMENT BENEFITS-TRAINING** (BARNES, JR. J) To prohibit a claimant's unemployment benefits from being reduced during any week that the claimant receives compensation for participating in a qualifying training course.
Current Status: 5/22/2018 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-679>

- HJR4 UNEMPLOYMENT COMPENSATION BONDS** (SCHURING K) To allow the General Assembly to provide by law for the issuance of bonds to pay unemployment compensation benefits when the fund created for that purpose is or will be depleted or to repay outstanding advances made by the federal government to the unemployment compensation program.
- Current Status:** 3/21/2018 - House Government Accountability and Oversight, (Twentieth Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-4>
- HJR7 PUBLIC SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of public sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember public sector employees in employment-related matters.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-7>
- HJR8 PRIVATE SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of private sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember private sector employees in employment-related matters.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-8>
- HJR9 PUBLIC CONTRACTOR WAGE PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 43 of Article II of the Constitution of the State of Ohio to prohibit a public authority from requiring a contractor on a public improvement to pay the contractor's workers the prevailing rate of wages for work performed on the public improvement.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-9>
- HJR10 GOVERNMENT CONTRACTS-REQUIREMENT PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 2 of Article XV of the Constitution of the State of Ohio to prohibit certain requirements or prohibitions regarding labor agreements in government contracts.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-10>
- HJR11 COLLECTIVE BARGAINING REPRESENTATIVE ELECTIONS** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to subject any public employee collective bargaining representative to an annual election to remain certified as the exclusive representative.

Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-11>

HJR12 PAYROLL DEDUCTIONS-LABOR DUES (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to prohibit dues and other fees payable to an employee organization from being deducted from the payroll check of a public employee and to prohibit those dues and fees from being used for political purposes unless authorized by the public employee.

Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-12>

HR391 REVISE H-2A VISA PROGRAM (YOUNG R) To urge President Donald J. Trump, members of his administration, and the Congress of the United States to revise the requirements for the H-2A temporary Agricultural Worker Visa Program established under the Immigration and Nationality Act to reduce the cost and regulatory impact on employers who utilize the program.

Current Status: 4/10/2018 - Referred to Committee House Federalism and Interstate Relations

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-391>

SB3 WORKFORCE DEVELOPMENT (BEAGLE B, BALDERSON T) To revise the laws governing the state's workforce development system, programs that may be offered by primary and secondary schools, certificates of qualification for employment, and the Opportunities for Ohioans with Disabilities Agency, and to designate the first week of May as In-Demand Jobs Week.

Current Status: 11/6/2017 - **SIGNED BY GOVERNOR**; Eff. 2/5/2018

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-3>

SB14 MINIMUM WAGES AND OVERTIME (TAVARES C) To require that domestic workers be paid the higher of the minimum wage provided in Section 34a of Article II, Ohio Constitution, or the minimum wage provided in the Fair Labor Standards Act, to require that domestic workers be paid overtime wages, to make certain conduct directed toward a domestic worker an unlawful discriminatory practice, and to require a weekly day of rest for domestic workers.

Current Status: 2/1/2017 - Referred to Committee Senate Transportation, Commerce and Workforce

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-14>

SB49 HIRING-FELONY CONVICTIONS (WILLIAMS S) To prohibit private employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.

Current Status: 11/15/2017 - Senate Transportation, Commerce and Workforce, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-49>

- SB100** **CIVIL RIGHTS-DISCRIMINATION PROHIBITIONS** (SKINDELL M, TAVARES C) To prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission must attempt to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing, and to eliminate certain religious exemptions from the Ohio Civil Rights Law.
Current Status: 3/15/2017 - Referred to Committee Senate Government Oversight and Reform
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-100>
- SB116** **MILITARY SPOUSE UNEMPLOYMENT COMPENSATION** (LAROSE F, WILLIAMS S) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.
Current Status: 5/23/2018 - House Armed Services, Veterans Affairs and Homeland Security, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-116>
- SB140** **PUBLIC-PRIVATE PARTNERSHIP GRANTS** (SCHIAVONI J) To create the Public-Private Partnership Grant Program for fiscal years 2018 and 2019 to develop, enhance, and promote educational programs to address regional workforce needs; to create the Sector Partnership Grant Program for fiscal years 2018 and 2019 to identify and provide grants to industry partnerships; to support programs that improve access to workforce training opportunities for students; to support economic development and revitalization programs; and to make an appropriation.
Current Status: 5/3/2017 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-140>
- SB261** **PAID FAMILY MEDICAL LEAVE** (TAVARES C) To establish family and medical leave insurance benefits to provide paid leave to allow an individual to address the individual's own serious health condition, to care for a family member, or to bond with a new child and to exempt those benefits from personal income tax.
Current Status: 3/21/2018 - Referred to Committee Senate Insurance and Financial Institutions
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-261>
- SB277** **STATE MINIMUM WAGE INCREASE** (THOMAS C, SCHIAVONI J) To increase the state minimum wage.
Current Status: 4/11/2018 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-277>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: June 6, 2018

Overview

2018 brings an election year, and with that a little bit less legislative activity than 2017. Several workers' compensation bills remain in play at the General Assembly. BWC Administrator Morrison was nominated by President Trump to serve as U.S. Federal District Court Judge for the Southern District of Ohio. The big news continues to be the rebates that the BWC has once again announced. Employers are expected to split \$1.5 billion in rebates.

Legislation and Rules

Senate Bill 118 / House Bill 161 – PTSD

New first responder PTSD bills were introduced last year in the General Assembly. The bills would provide workers' compensation benefits for first responders with post-traumatic stress disorder (PTSD) arising from employment, even without an accompanying physical injury or occupational illness. Benefits could be provided to qualifying claimants for up to one year.

The bills would create a fundamental shift from current workers' compensation law which requires a physical injury before allowing any mental health claims.

The Bureau of Workers' Compensation (BWC) board reviewed a report from the BWC actuarial staff quantifying the financial impact this bill and its companion, Senate Bill 118, would have on the local governments which would pay the claims.

It is estimated that the bill would cost up to an additional \$98.4 million annually in claims. For comparative purposes, currently all public entities in the State Insurance Fund combined pay approximately \$190 million in total annual premium today.

OMA and its business allies have long opposed opening the workers' compensation system to cover claims with no accompanying physical injury or occupational illness.

House Bill 161 had sponsor testimony last May. Senate Bill 118 has now had two hearings, including proponent testimony from Police and Firefighter groups. The OMA and its business community allies have been meeting with Senators reiterating opposition to the proposal.

House Bill 268 – Makes changes to Ohio's self-insurance workers comp laws

The bill would create a second self-insured guaranty fund for employers who currently cannot meet the financial metrics to go self-insured under today's laws. The bill also allows self-insured companies to purchase private insurance.

During the bill's third hearing the OMA testified in opposition of the bill. OMA Workers' Compensation Committee member Cathy Duhigg Gannon from Eaton provided OMA's opponent testimony.

House Bill 269 – Workers Compensation changes

The bill would rename the BWC to the Worker Safety and Rehabilitation Agency. It would require the agency to develop incentives for employers to participate in safety consultations and loss prevention programs. The bill requires an employee who is receiving temporary total disability compensation to comply with a return to work plan, and it makes changes with respect to compensation for permanent total disability and death benefits. The bill has had three hearings.

House Bill 380 – Illegal Aliens

The bill prohibits illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law. The bill is based off of the amendment that was eventually removed from the workers' compensation budget bill.

The House passed the bill in early December. The Senate had a first hearing on the bill in March. The subject was controversial in the Senate when this issue was debated during the BWC budget bill.

House Bill 459 – Group Self Insurance

The bill would allow groups of employers to be granted status as a self-insuring employer for purposes of the Workers' Compensation Law. The bill would leave it up to the BWC on how to structure and operate any such program. The bill has had several hearings and is supported by the Construction Employers Association. The OMA and other business allies provided opponent legislation.

BWC Agency Notes

Morrison Nominated for Judgeship

President Trump nominated BWC Administrator Sarah Morrison to serve as U.S. Federal District Court Judge for the Southern District of Ohio. Both U.S. Senators Rob Portman and Sherrod Brown recommended the President nominate Administrator Morrison for the vacancy in Columbus, Ohio, which was created upon the retirement of the Honorable Gregory L. Frost. The nomination will now be vetted by the Senate Judiciary Committee before being considered for confirmation by the full U.S. Senate. The Southern District has court locations in Cincinnati, Columbus, and Dayton and serves more than five million Ohioans in 48 counties.

\$1.5 Billion Back

The BWC proposed giving Ohio employers \$1.5 billion in premium rebates this summer, expanding workers' comp savings for employers to \$8 billion since 2011. The rebate, BWC's largest in 20 years, was proposed to BWC's Board of Directors Wednesday, April 25. The Board approved the proposal at its May 24 meeting. Rebate checks will likely be mailed in July and August.

The rebate equals 85 percent of the premiums paid for the policy year that ended June 30, 2017 (calendar year 2016 for public employers). It would follow \$1 billion rebates issued in 2013, 2014 and 2017, as well as a \$15 million rebate in 2016 for counties, cities and other public employers.

BWC Proposes 12% Premium Reduction

The Ohio Bureau of Workers' Compensation (BWC) asked its board of directors to reduce private employer premium rates by 12 percent beginning July 1.

The BWC reports that, if approved, the reduction would save private employers \$163.5 million over this year's premiums.

What enables the proposed reduction is fewer workplace injury claims and slow-to-moderate growth in medical inflation according to BWC Administrator/CEO Sarah Morrison.

BWC reported 86,290 allowed claims in 2017, a near 18% drop from 2011. This is the lowest number of claims dating back to at least 1997.

The actual premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history, and their participation in various BWC discount programs.

The board approved the recommendation at its February board of directors meeting.

BWC Hires Inclusion & Diversity Director

The Bureau of Workers' Compensation (BWC) announced: "A diversity expert with the state of Ohio joined the Ohio Bureau of Workers' Compensation (BWC) Monday as its first director of Inclusion & Diversity.

"Carolina Thatcher assumes the role following a similar stint with the Ohio Department of Job and Family Services, where she designed and implemented an inclusion and diversity strategic plan to recruit and retain top talent and better serve the agency's customers.

"At Job and Family Services, Thatcher's duties included curriculum development, training and implementation, and serving on several multi-agency inclusion and diversity committees across the state. Prior to that she worked as an insurance underwriter for State Farm Insurance in Newark and as an assistant program director for East End Community Services Corp. in Dayton, where she established the nonprofit as a leading agency on immigrant issues.

"A native of the Republic of Chile in South America, Thatcher speaks Spanish and English and holds a master's degree in public administration from Wright State University. She and her family live in Hilliard."

Safety Issues

OSHA Will Enforce Beryllium Standard Starting in May

According to the agency, OSHA will start enforcement of the final rule on occupational exposure to beryllium in construction, shipyard, and general industries on May 11, 2018.

The start of enforcement had previously been set for March 12, 2018. In response to feedback from stakeholders, the agency is considering technical updates to clarify and simplify compliance. In the interim, if an employer fails to meet the new exposure limits, OSHA will inform the employer and offer assistance to ensure compliance.

BWC Administrator Outlines 2018 Focus: Wellness and Workplace Safety

Earlier this year Bureau of Workers' Compensation (BWC) Administrator Sarah Morrison, described the agency's push for wellness and safety in 2018.

She wrote: “An overwhelming amount of research shows us that a healthy lifestyle leads to wellness in virtually every facet of our lives, including the workplace. BWC’s new wellness program will offer Ohio workers in small businesses a variety of services. Details are being finalized, but the program will offer services such as health risk assessments, biometric screenings, personalized health plans and coaching, chronic disease management and more. This is geared to help workers live a healthy, balanced life – factors that can prevent injury, or recover more quickly if they are hurt on the job.”

And, “Safety will continue to take center stage in 2018. ... To increase the awareness of the importance of safety, we will introduce a public health and safety campaign focused on preventing slips, trips and falls, overexertions and motor vehicle accidents (all of which make up about 60 percent of our injured worker claims each year).”

OSHA Raises Penalty Amounts for 2018

From OSHA: “On Jan. 2, civil penalty amounts for violations of workplace safety and health standards increased by two percent from last year. In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the Department of Labor is required to adjust penalties for inflation each year. New penalties for willful and repeat violations are \$129,336 per violation; serious, other-than-serious, and posting requirements are \$12,934 per violation; and failure to correct violations is \$12,934 for each day the condition continues.”



THE OHIO COUNCIL OF

Retail Merchants
The voice of retail since 1922



May 16, 2018

The Honorable Tom Brinkman
Chairman
House Insurance Committee
77 S. High St.
Columbus, OH 43215

Dear Chairman Brinkman:

Our organizations are jointly writing today to express our collective opposition to House Bill 459.

In Ohio there are currently two ways an employer may provide workers' compensation coverage for its employees. An employer may either pay premiums into the State Insurance Fund; or, if qualified, may be granted the privilege of paying compensation and benefits directly, known simply as self-insurance. Under the proposed legislation a new third option would become available to employers. House Bill 459 allows the Bureau of Workers' Compensation (BWC) Administrator to grant self-insuring status to a *group* of employers.

The bill itself is vague regarding how such a program would operate. The bill only states that the Administrator must adopt rules to implement group self-insurance. Within these rules the Administrator is supposed to determine whether a group of employers has sufficient financial and administrative ability to be viable and the Administrator is supposed to establish rules whereby an employer could join a group. No other specificity is provided in the bill.

Our organizations are wary of group self-insurance structures. As a monopolistic workers' compensation system, Ohio employers who are not self-insured must purchase coverage from the Ohio BWC. The system is designed to account for the risk of all employers. Because of this Ohio is both an insurer of first and last resort. By removing a percentage of state fund employers into group self-insurance, premiums for the remaining companies have the potential of being adversely impacted.

Ohio also has a strong self-insured program as exhibited in previous testimony before this committee. The prevailing reason that companies are not granted self-insurance in

Ohio is because their financial positions are not strong enough to cover expected losses from workers' compensation claims and insulate all participants from bankruptcies. Strong financials are necessary so that the Guaranty Fund, any guaranty fund, does not go bankrupt under financial pressure. During the Great Recession in 2008, the BWC and the self-insured community shared a significant concern that the Self-Insured Employers' Guaranty Fund would not be adequate to cover current and future liabilities as companies went out of business and others were teetering on the brink of bankruptcy, and this included some of the strongest and most financially stable companies. Imagine the potential crisis with groups comprised of much smaller and financially weaker employers.

While we appreciate Representative Henne's innovative work on House Bill 459, there remain far too many unknowns with the bill and our collective organizations oppose it at this time.

Sincerely,

Ohio Self Insurers Association

The Ohio Council of Retail Merchants

Ohio Chamber of Commerce

The Ohio Manufacturers' Association



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Kelly Bomba

S.B. 118

132nd General Assembly
(As Introduced)

Sens. LaRose and Brown, Bacon, Eklund, Skindell, Thomas, Yuko, Schiavoni

BILL SUMMARY

- Makes a peace officer, firefighter, or emergency medical worker who is diagnosed with post-traumatic stress disorder (PTSD) eligible to receive compensation and benefits under Ohio's Workers' Compensation Law for up to one year, regardless of whether the person suffers an accompanying physical injury.
 - Prohibits a claimant from receiving compensation or benefits under the Workers' Compensation Law for PTSD with no accompanying physical injury at the same time as the claimant is receiving a disability benefit from a state retirement system for that injury.
-

CONTENT AND OPERATION

Workers' compensation coverage for PTSD

Under the bill, a peace officer, firefighter, or emergency medical worker who is diagnosed with post-traumatic stress disorder (PTSD), received in the course of and arising out of the person's employment as a peace officer, firefighter, or emergency medical worker, may be eligible to receive compensation and benefits under Ohio's Workers' Compensation Law for up to a year beginning on the date the compensation or benefit payments start, regardless of whether the PTSD is connected to a compensable physical injury.¹ Currently, an employee is not eligible to receive any compensation or benefits under Ohio Workers' Compensation Law for PTSD unless the PTSD arose from a compensable physical injury incurred by the employee.

¹ R.C. 4123.01(C) and 4123.87(A), with conforming changes in R.C. 4123.01(A), 4123.026, and 4123.46.

Under the bill, a claimant is not entitled to compensation or benefits under the Workers' Compensation Law for PTSD as provided under the bill while the claimant receives a disability benefit or disability retirement, as appropriate, from the Public Employees Retirement System (PERS), the Ohio Police and Fire Pension Fund (OP&F), the School Employees Retirement System (SERS), or the State Highway Patrol Retirement System (SHPRS).²

If a claimant receives compensation or benefits under the Workers' Compensation Law for PTSD without an accompanying physical injury while the claimant receives a disability benefit or disability retirement from a retirement system, the bill allows the Administrator of Workers' Compensation, or a self-insuring employer, to collect both of the following from the claimant:

(1) The amount of compensation or benefits paid to the claimant by the Administrator or the self-insuring employer pursuant to Workers' Compensation Law for the time period the claimant received disability benefits or a disability retirement from the retirement system;

(2) Any interest, attorney's fees, and costs the Administrator or the self-insuring employer incurs in collecting that payment.³

Upon determining that a PERS, OP&F, SERS, or SHPRS member's PTSD without an accompanying physical injury qualifies the member for a disability benefit or disability retirement, the bill requires the appropriate retirement system to notify the Administrator of all of the following: the member's name, that the member's PTSD without accompanying physical injury qualifies the member for a disability benefit or disability retirement, the effective date of the member's disability benefit or disability retirement, and the date on which payments for the disability benefit or disability retirement commence. The bill exempts these reports from current law confidentiality requirements applicable to certain PERS, OP&F, SERS, or SHPRS records.⁴

Background – psychiatric conditions as "injuries"

Other than injuries falling under specific exceptions (self-inflicted injuries or injuries caused by the employee's intoxication), Ohio's Workers' Compensation Law entitles every employee who is injured or contracts an occupational disease to receive

² R.C. 4123.87(B).

³ R.C. 4123.87(C).

⁴ R.C. 145.364, 742.391, 3309.402, and 5505.182.

compensation, benefits, or both on account of the injury or occupational disease.⁵ Continuing law defines "injury" as any injury received in the course of, and arising out of, the injured employee's employment. Currently, psychiatric conditions generally are excluded from the definition of injury, except where:

(1) The employee's psychiatric conditions have arisen from an injury or occupational disease sustained by that employee; or

(2) The employee's psychiatric conditions have arisen from sexual conduct in which the employee was forced to engage or participate by threat of physical harm.⁶

Thus, under current law, an employee is not eligible to receive compensation or benefits under Ohio's Workers' Compensation Law for PTSD unless the PTSD arose from a compensable physical injury incurred by the employee.⁷

Background – PTSD

PTSD is an illness caused by living through or seeing a traumatic event, such as war, a violent crime, or a bad accident. PTSD can cause flashbacks, trouble sleeping, thoughts of hurting oneself or others, angry outbursts, and feelings of worry, guilt, sadness, or loneliness. Signs of PTSD may start soon after a traumatic event or may start or intensify years after the event.⁸

Definitions

Under continuing law, a "peace officer" means any of the following:

(1) A sheriff or deputy sheriff;

(2) A marshal or deputy marshal;

(3) A member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio;

(4) A member of a police force employed by a metropolitan housing authority;

⁵ R.C. 4123.54, not in the bill.

⁶ R.C. 4123.01(C).

⁷ *Armstrong v. Jurgensen Co.*, 136 Ohio St.3d 58, 2013-Ohio-2237.

⁸ National Institute of Mental Health, *Post-Traumatic Stress Disorder*, <http://www.nimh.nih.gov/health/publications/post-traumatic-stress-disorder-easy-to-read/index.shtml>.

- (5) A member of a police force employed by a regional transit authority;
- (6) A state university law enforcement officer;
- (7) An enforcement agent of the Department of Public Safety;
- (8) An employee of the Department of Taxation to whom investigation powers have been delegated under the Cigarette Tax Law;
- (9) An employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, a forest-fire investigator, a natural resources officer, or a wildlife officer;
- (10) A person designated to perform law enforcement duties in a park district or conservancy district or by a park commission;
- (11) A veterans' home police officer;
- (12) A special police officer employed by a port authority;
- (13) A township police constable;
- (14) A police officer of a township or joint police district;
- (15) A special police officer employed by a municipal corporation at a municipal airport or certain other municipal air navigation facilities;
- (16) The House of Representatives Sergeant at Arms, if the person has arrest authority, or an assistant House of Representatives Sergeant at Arms;
- (17) The Senate Sergeant at Arms or an assistant Senate Sergeant at Arms;
- (18) Certain Bureau of Criminal Identification and Investigation employees or officers;
- (19) A state fire marshal law enforcement officer;
- (20) The Superintendent and troopers of the State Highway Patrol, for specified purposes.⁹

⁹ R.C. 4123.01(O), by reference to R.C. 2935.01, not in the bill.

Under continuing law, an "emergency medical worker" means any of the following persons, whether the person is paid or a volunteer, so long as the person is certified under Ohio law:

- A first responder;
- An emergency medical technician-basic;
- An emergency medical technician-intermediate;
- An emergency medical technician-paramedic.¹⁰

HISTORY

ACTION	DATE
Introduced	03-23-17

S0118-I-132.docx/ks

¹⁰ R.C. 4123.01(A) and (Q).





NEWS RELEASE

April 24, 2018

Kasich and BWC propose \$1.5 billion rebate for Ohio employers

Agency's fourth rebate would bring work comp savings to \$8 billion since 2011

COLUMBUS – Gov. John R. Kasich and the top executive for the Ohio Bureau of Workers' Compensation (BWC) on Tuesday proposed giving Ohio employers \$1.5 billion in premium rebates this summer, expanding workers' comp savings for employers to \$8 billion since 2011.

"We've had healthy income and returns on our investment portfolio, and it's only right to share that success with our private and public employers," said BWC Administrator/CEO Sarah Morrison, standing with Kasich at the Land-Grant Brewing Co. in downtown Columbus. "We know that the more money we leave with employers, the more they can invest in their employees and grow their business."

Added Kasich: "This is another example of how Ohio is using every tool in the box to make our environment for job creation one of the best in the nation, and our workers' compensation system has been a great partner in our efforts. We're up 500,000 private sector jobs and these additional savings in workers' compensation costs will continue to help our businesses grow and succeed."

The rebate, BWC's largest in 20 years, will be proposed to BWC's Board of Directors Wednesday, April 25, and voted on at the board's May 24 meeting. If approved, rebate checks would likely be mailed in July and August.

The proposed rebate equals 85 percent of the premiums paid for the policy year that ended June 30, 2017 (calendar year 2016 for public employers). It would follow \$1 billion rebates issued in 2013, 2014 and 2017, as well as a \$15 million rebate in 2016 for counties, cities and other public employers.

Of the \$1.5 billion, an estimated \$48 million would go to schools and \$111 million would go to local government entities. That's on top of \$402 million in rebates those public

taxing districts have received since 2013 (\$125 million for schools, \$277 million for others).

As with previous rebates, BWC is also exploring a significant investment in health and safety services, the details of which will be announced in the coming weeks.

Adam Benner, president of Land-Grant Brewery, said his company expects a rebate of around \$8,500.

“We’re a young company and our business is steadily growing,” said Benner. “This rebate helps us invest in our future.”

Morrison cautioned that despite recent history, strong investment returns and rebates are a goal, not a guarantee. “Our investments are still growing, but we’re seeing the rate of that growth moderate in 2018,” she said. “There are lots of variables that influence the market.”

With this rebate, BWC will have saved employers \$8 billion in workers’ compensation costs since 2011 after considering other rebates, credits, greater efficiencies and several rate reductions, including two this year.

More details on the rebate can be found [here](#). An overview of the \$8 billion in workers’ comp savings since 2011 can be found [here](#).

###



More than **A** **BILLION** back again

Building a culture of safety across the state is at the heart of our work at the Ohio Bureau of Workers' Compensation. Reducing workplace accidents while returning injured workers back to the job and back to life helps both employers and workers thrive.

Safer workplaces and fewer injuries have helped us reduce rates to 30 year lows and deliver more than \$4 billion in rebates and credits to Ohio employers since 2011. That leaves more money in employers' hands to invest in their business.

Another factor supporting a robust workers' comp system in Ohio is wise management of the premium dollars BWC collects from 240,000 employers. BWC's financial position is solid with strong investment income and returns.

The result of prudent fiscal management, strong investments and falling claim numbers: We're poised to deliver our largest rebate in 20 years. That would bring the total returned to the economy to more than \$8 billion since 2011.

What does BWC's plan include?

A one-time rebate for private employers and public-taxing districts will total approximately \$1.5 billion.

How much would employers receive and when?

Most rebates would equal 85% of the employer's premium for the policy year ending June 30, 2017 (calendar year 2016 for public employers). BWC would begin sending checks in early July.

Private employers in the Group-Retrospective Rating Program would receive checks in the Fall.

Who will be eligible for the rebate?

Both private employers and public employer taxing districts that pay into the State Insurance Fund are eligible for the rebate. Generally, the employer must have been billed premium for the policy year ending June 30, 2017 (Dec. 31, 2016 for public employers), and be current in meeting their policy requirements. Employers with an outstanding BWC balance will have their rebate first applied to that balance. Employers that report through a Professional Employer Organization should receive their rebate from their PEO, which is required to pass a portion of the rebate on to their members.

How will the plan impact local governments and schools?

Local governments and schools have benefitted from three \$1 billion rebates since 2013 and a \$15 million rebate for Public Work Relief Employees' Fund. During that time, BWC has returned \$402 million — \$125 million to schools and \$277 million to local government entities. This rebate will add an estimated \$48 million to schools and \$111 million to local governments. As an example, a school district with \$12 million in payroll would have been paying \$96,000 in premium in 2011, and \$73,200 in 2018. That's \$124,000 in premium savings. That district would have also received \$288,000 in rebates and credits during that time, making for almost \$413,000 in savings.

How is it possible that BWC has \$1.5 billion to provide rebates?

Despite rate reductions and rebates and credits already totaling \$4 billion since 2011, our net position has continued to grow. The State Insurance Fund's net position stands at nearly \$11 billion, primarily due to strong investment income and returns. Investments earned a 7.8 percent return in 2017 and an average of 6.6 percent over the last five fiscal years. Prudent fiscal management and declining claims also factor into our financial strength.

Will this impact BWC's ability to operate as normal and continue to care for injured workers?

No. Even with a \$1.5 billion rebate, BWC's finances will remain strong, allowing us to continue providing injured workers with the care they need to heal and return to work. In fact, we are developing a proposal to invest a significant amount into worker safety and wellness, which should benefit Ohio workers by further reducing workplace injuries.

What else has BWC done to help Ohio businesses?

Once the latest rebates have been distributed, BWC will have saved Ohio businesses \$8 billion through rebates, credits and rate reductions since the beginning of 2011. That includes:

- \$1 billion rebates in 2013, 2014 and 2017;
- \$1.2 billion in credits to transition to a modern billing system at no cost to employers;
- Rate reductions for private employers of an average of 28.2 percent*. That means BWC collected \$1.7 billion less from employers than if 2010 rates had remained unchanged;
- Rate reductions for public employers of an average of 33.9 percent, or \$434 million less than had 2010 rates remained steady;
- Moving from the third highest rates in the country in 2008 to the 11th lowest.

**This rate will increase to 35% on July 1, 2018*

Safety & Workers' Compensation

Coming soon: BWC Email Payment Notifications

June 1, 2018

BWC has announced that it will soon offer employers the chance to sign up for email notifications that give them access to their monthly invoice as soon as it is available.

Employers will also earn a 1-percent Go-green rebate, up to \$2,000, for enrolling to receive email notifications. The target date for the launch of email notifications is late June.

To receive the discount, BWC will require the employer to:

1. Sign-in to their BWC e-account.
2. Click Request eNotices and follow the instructions to enroll.
3. Complete their payroll true-up online by the due date (Aug. 15, 2018, for private employers).

Note: If there is a balance due, the employer must pay it in full when submitting their payroll true-up. 5/31/2018

BWC Board Approves Historic Rebate

May 25, 2018

The Ohio Bureau of Workers' Compensation (BWC) board of directors approved a proposed **\$1.5 billion rebate** today at its meeting this week. The BWC will mail rebate checks to roughly 180,000 Ohio employers this summer.

The agency credits healthy investment income, fewer claims and prudent fiscal management.

A BWC spokesperson said, to receive the rebate, employers must pay any overdue premium amounts and submit outstanding payroll reports before June 8, and verify contact information so checks are mailed to the correct address. Employers can pay outstanding premium, submit payroll reports and verify demographic information by **logging into their e-accounts**.

The rebate checks will equal 85% of the premiums paid for the policy year that ended June 30, 2017.

The BWC reported that it earned an average 6.7% net return on its investments of the State Insurance Fund over the last five fiscal years, pushing the fund's net position to \$10.9 billion as of March 31 and driving the agency's latest rebate initiative, the largest in 20 years. 5/24/2018

OMA Opposes Group Self Insurance Bill

May 18, 2018

This week the OMA teamed up with business allies to oppose **House Bill 459**, a proposal that would enable groups of employers to be granted self-insured status under Ohio workers' compensation laws.

The group submitted a **letter of opposition** to House Insurance Committee Chairman **Tom Brinkman**(R-Cincinnati), saying: "Our organizations are wary of group self-insurance structures. ... During the Great Recession in 2008, the BWC and the self-insured community shared a significant concern that the Self-Insured Employers' Guaranty Fund would not be adequate to cover current and future liabilities as companies went out of business and others were teetering on the brink of bankruptcy, and this included some of the strongest and most financially stable companies. Imagine the potential crisis with groups comprised of much smaller and financially weaker employers." The bill has had two committee hearings. 5/17/2018

When is Your Billion Back Check Coming?

May 18, 2018

The Bureau of Workers' Compensation (BWC) expects to begin processing employer workers' compensation premium rebates on June 27 for the policy year July 1, 2016 – June 30, 2017.

The measure will have a final vote by the BWC board at its May 24 meeting.

The rebate will equal 85% of the annual premium paid in the 2016/17 policy year.

If approved, the BWC expects to mail checks by the end of July. However, group retrospective rated employers will use individual experience rated premium net of impact of their 12-month premium calculation and will receive their rebate checks in mid-October.

You'll want to make sure you're eligible to receive your share by paying any lapsed premium amounts and completing any outstanding true-up before June 8, 2018. Also review your demographic information held by the BWC to ensure your rebate check is mailed to the correct address.

OMA's **Brian Jackson** can answer your questions. *5/15/2018*

BWC Rolls Out New Website May 18, 2018

The Bureau of Workers' Compensation (BWC) this week unveiled its new website. Its stated goal was to provide more relevant, easy to navigate content.

The new site will meet suggested guidelines for accessibility. Examples include color schemes that improve readability and fewer PDFs, which interfere with software for the visually impaired. All pages will be available in Spanish.

This **short video** provides an overview of the new navigation. *5/15/2018*

Say it Again: Safety First May 18, 2018

Use **Better Safety Conversations**, a new product from OSHA's **Safe + Sound Campaign**, to improve the safety dialogue with workers in your organization. *5/15/2018*

BWC's MCO Open Enrollment is Underway May 4, 2018

The open enrollment period for Ohio employers to select a managed care organization (MCO) to oversee medical treatment for workers injured on the job began Monday, April 30, and continues through Friday, May 25.

The Ohio Bureau of Workers' Compensation (BWC) offers open enrollment every two years for employers to select from a network of 13

MCOs that manage claim filings and medical care that injured workers need to recover and return to work.

No action is required of employers satisfied with their current MCO.

Open enrollment details are available in the **MCO Selection Guide on BWC's website**. Visitors to the site can also find the MCO Report Card that summarizes each MCO's performance.

OMA's only endorsed MCO is **Health Management Solutions, Inc. (HMS)**. HMS has achieved the highest ranking among MCOs in 2018 in an important measure the BWC calls Measurement of Disability, or MoD. This score represents an MCO's efficacy in returning workers to duty in a safe and timely manner. The MoD rating measures effective case management. The MoD score (also called "Days Absent") is displayed on page 3 of the **BWC's 2018 MCO Report Card**.

MCO changes will be effective July 2. Questions? Contact OMA's **Brian Jackson**. *4/26/2018*

Report OSHA 300A Data by July 1 May 4, 2018

According to OSHA, employers can now begin to electronically report their Calendar Year (CY) 2017 Form 300A data to OSHA.

All covered establishments must submit the information by July 1, 2018. (Employers can view their submitted CY 2016 Form 300A summary information, but they cannot edit or submit additional 2016 data on this website.) To review which establishments need to provide their 2017 data, **click here**.

Covered establishments with 250 or more employees are only required to provide their 2017 Form 300A summary data. OSHA is not accepting Form 300 and 301 information at this time. OSHA announced that it will issue a notice of proposed rulemaking to reconsider, revise, or remove provisions of the "Improve Tracking of Workplace Injuries and Illnesses" final rule, including the collection of the Forms 300/301 data. The agency is currently drafting that notice of proposed rulemaking and will seek comment on those provisions.

Read more here. *4/30/2018*

Court Confirms: Staffing Agency's Workers' Comp Policy Shields Customer from Common Law Negligence Claims, Too

May 4, 2018

From OMA Connections Partner, Frantz Ward, this summary of a recent decision from Ohio's Eighth District Court of Appeals: "An Ohio court of appeals last week confirmed that a primary benefit of using staffing companies – the staffing company's payment of workers' compensation premiums covering the loaned employees – shields both the staffing company and its customer from workplace negligence claims."

Read **more about this case here**. 5/3/2018

Report Lays Out Plan to Eliminate Roadway Deaths by 2050

May 4, 2018

Motor vehicle crashes are the single largest cause of work-related fatalities. The **National Safety Council's Road to Zero Coalition** has released a report outlining a plan to eliminate vehicle-related roadway fatalities over the next three decades.

The Road to Zero: A Vision for Achieving Zero Roadway Deaths by 2050, describes how the automotive industry, government agencies, and safety and health advocates can join forces to prevent vehicle collisions. 5/1/2018

\$1.5 Billion BWC Premium Rebate Proposed
April 27, 2018

On Tuesday of this week Gov. John R. Kasich and Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Sarah Morrison proposed giving Ohio employers \$1.5 billion in premium rebates this summer.

The rebate was proposed to BWC's board of directors on Wednesday and the board will take up a vote at its May 24 meeting. If approved, rebate checks would likely be mailed in July and August.

The proposed rebate equals 85% of the premiums paid for the policy year that ended June 30, 2017 (calendar year 2016 for public employers).

With this rebate, BWC will have saved employers \$8 billion in workers' compensation costs since 2011 after considering other rebates, credits, greater efficiencies and several rate reductions, including two this year.

OMA president Eric Burkland commented, "The ongoing prudent management of the BWC is resulting in significant savings for Ohio's employers. The BWC leadership team and board have correctly placed their focus on safety and incident prevention as well as expeditious and effective medical treatment. Its funds management practices are to be commended as well. All of these activities result in a competitive advantage for Ohio's employers. This is good economic news for our state."

More details on the rebate can be **found here**. An overview of the \$8 billion in workers' comp savings since 2011 can be **found here**. 4/24/2018

Ohio Supreme Court Rules that BWC Must be Notified of Potential Third-party Settlements
April 27, 2018

Here's a **recent post** from OMA Connections Partner, Bricker & Eckler: "The Ohio Supreme Court recently ruled that the Ohio Bureau of Workers' Compensation (BWC) must be notified of potential third-party settlements that would compensate an injured worker for an injury, even when an application for workers' compensation benefits has been denied and is under appeal. ...

"Three things were made clear by the Court:

1. A claimant, for subrogation purposes, is any party who is eligible for compensation, medical benefits, or death benefits from the BWC; and,
2. A claimant is "eligible" for BWC benefits unless and until a final determination has been made indicating a claimant is not eligible for such; and,
3. Employers can be penalized if the BWC and/or Ohio Attorney General's Office

(AGO) are not notified of third-party payments made to a claimant in their employ.

“This case is a good reminder to employers that if you have an employee who has been involved in a motor-vehicle accident, or other claim where there is a potential right to subrogation, you need to notify the BWC and AGO of their rights as a subrogee. Otherwise, you could be required to pay the BWC and AGO back for the money spent on the claim.” 4/25/2018

New! BWC 2018-19 Safety Services Catalog **April 27, 2018**

The extensive and free safety courses, services and programs of the Bureau of Workers' Compensation Division of Safety & Hygiene are captured in the new 2018-19 Safety Services Catalog. **Check it out!** 4/26/2018

Considering New Safety Equipment? **April 27, 2018**

The Bureau of Workers' Compensation (BWC) Safety Intervention Grant program offers employers a 3-to-1 matching grant, up to \$40,000, to purchase equipment that will reduce or eliminate injuries and illnesses. That's \$3 for every \$1 you contribute.

To learn more or schedule an appointment to discuss your idea, call 1-800-644-6292 or visit this **BWC web page**. Hurry! Funds are limited! 4/25/2018

PTSD Hearings Continue in Senate **April 23, 2018**

This week the Ohio Senate Insurance and Financial Institutions Committee had its **second hearing** on Senate Bill 118. The bill, sponsored by Senators Frank LaRose (R-Copley) and Edna Brown (D-Toledo), would allow peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder (PTSD) without an accompanying physical injury eligible to receive workers' compensation benefits.

Ohio law currently requires that an individual is only eligible for PTSD benefits if the diagnosis arises from an accompanying physical injury. The OMA and other business groups have long

opposed the expansion of workers' compensation benefits to non-physical injury.

Over the past several years the OMA has offered the General Assembly a variety of solutions to ensure that Ohio's first responders receive the necessary care without expanding the Ohio's workers' compensation laws. 4/19/2018

Sarah Morrison Nominated for Federal Judgeship **April 13, 2018**

OMA Connections Partner Bricker & Eckler **posted**: “On April 10, 2018, in his 12th wave of judicial nominees, President Trump nominated Ohio's Administrator and Chief Executive Officer of the Bureau of Workers' Compensation (BWC) Sarah Daggett Morrison. “Appointed by Governor Kasich, Administrator Morrison oversees the \$25 billion and an agency staff of 1,800. Prior to her appointment, she served for four years as the general counsel and chief ethics officer of the BWC. Before entering state service, Morrison was a partner in the Columbus office of Taft Stettinius & Hollister LLP, where she practiced complex civil and commercial litigation.

“If confirmed, Administrator Morrison will serve as a district judge on the U.S. District Court for the Southern District of Ohio.”

Congratulations, Sarah! 4/11/2018

Guidance on Costly VSSRs **April 6, 2018**

OMA Connections Partner, Bricker & Eckler, posted an important caution to employers about Violations of Specific Safety Requirements: “Unfortunately, most employers don't know a lot about a Violation of Specific Safety Requirement (VSSR) until one is filed against them by an injured employee.

“And most employers think that because they are OSHA compliant, they are covered – not true. The specific safety requirements of the Bureau of Workers' Compensation (BWC) are set forth in the Ohio Administrative Code and, are many times, stricter than OSHA.

“So, what is a VSSR anyway? In addition to “regular” workers’ compensation benefits, an injured employee may be eligible for a VSSR award if the injury, illness or death was caused by the employer’s failure to comply with specific safety requirements.”

Read on. 4/3/2018

BWC Hires Inclusion & Diversity Director
April 6, 2018

The Bureau of Workers’ Compensation (BWC) announced: “A diversity expert with the state of Ohio joined the Ohio Bureau of Workers’ Compensation (BWC) Monday as its first director of Inclusion & Diversity.

“Carolina Thatcher assumes the role following a similar stint with the Ohio Department of Job and Family Services, where she designed and implemented an inclusion and diversity strategic plan to recruit and retain top talent and better serve the agency’s customers.

“At Job and Family Services, Thatcher’s duties included curriculum development, training and implementation, and serving on several multi-agency inclusion and diversity committees across the state. Prior to that she worked as an insurance underwriter for State Farm Insurance in Newark and as an assistant program director for East End Community Services Corp. in Dayton, where she established the nonprofit as a leading agency on immigrant issues.

“A native of the Republic of Chile in South America, Thatcher speaks Spanish and English and holds a master’s degree in public administration from Wright State University. She and her family live in Hillard.” 4/5/2018

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on June 5, 2018

- HB27** **WORKERS' COMPENSATION BUDGET** (BRINKMAN T) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of the Bureau's programs.
Current Status: 6/30/2017 - **SIGNED BY GOVERNOR**; eff. 6/30/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-27>
- HB28** **INDUSTRIAL COMMISSION BUDGET** (BRINKMAN T) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/28/2017 - **SIGNED BY GOVERNOR**; eff. 6/28/17
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-28>
- HB99** **WORKERS COMPENSATION-PNEUMOCONIOSIS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.
Current Status: 3/21/2018 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-99>
- HB133** **DISASTER RELIEF ACT** (RYAN S) To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared disaster.
Current Status: 5/16/2018 - **PASSED BY SENATE**; Vote 31-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-133>
- HB161** **WORKERS COMPENSATION-PTSD** (PATTON T) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law for up to one year and to prohibit such a person from receiving a disability benefit from a state retirement system for post-traumatic stress disorder arising from employment without an accompanying physical injury during the time period the person receives compensation and benefits under the Workers' Compensation Law for the disorder.
Current Status: 5/24/2017 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-161>
- HB268** **WORKERS COMPENSATION-SELF-INSURERS** (HENNE M) To make changes to the Workers' Compensation Law with respect to self-insuring employers.
Current Status: 12/13/2017 - House Insurance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-268>
- HB269** **WORKERS COMPENSATION OVERHAUL** (HENNE M) To rename the entities who carry

out workers' compensation functions in this state, to require the Administrator of Worker Safety and Rehabilitation to develop incentives for employers to participate in safety consultations and loss prevention programs, to require an employee who is receiving temporary total disability compensation to comply with a return to work plan, and to make changes with respect to compensation for permanent total disability and death benefits.

Current Status: 12/13/2017 - House Insurance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-269>

HB380 **WORKERS COMP-ILLEGAL ALIENS** (SEITZ B, HOUSEHOLDER L) To prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law.

Current Status: 3/13/2018 - Senate Insurance and Financial Institutions, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-380>

HB459 **WORKERS COMP-SELF-INSURING EMPLOYERS** (HENNE M) To allow groups of employers to be granted status as a self-insuring employer for purposes of the Workers' Compensation Law.

Current Status: 5/23/2018 - House Insurance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-459>

SB118 **PTSD TREATMENT-FIRST RESPONDERS** (LAROSE F, BROWN E) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law for up to one year and to prohibit such a person from receiving a disability benefit from a state retirement system for post-traumatic stress disorder arising from employment without an accompanying physical injury during the time period the person receives compensation and benefits under the Workers' Compensation Law for the disorder.

Current Status: 4/17/2018 - Senate Insurance and Financial Institutions, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-118>

SB140 **PUBLIC-PRIVATE PARTNERSHIP GRANTS** (SCHIAVONI J) To create the Public-Private Partnership Grant Program for fiscal years 2018 and 2019 to develop, enhance, and promote educational programs to address regional workforce needs; to create the Sector Partnership Grant Program for fiscal years 2018 and 2019 to identify and provide grants to industry partnerships; to support programs that improve access to workforce training opportunities for students; to support economic development and revitalization programs; and to make an appropriation.

Current Status: 5/3/2017 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-140>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: June 6, 2018

Overview

The biggest tax and finance news continues to come from the federal government with the passage of tax reform and the steel and aluminum tariffs hitting. In Ohio the business community secured a big court victory over local government and members remain engaged on the manufacturing sales and use tax exemption rule that is being reviewed by the Department along with looking for ways to make Ohio manufacturing even more competitive in regards to tax and economic development policy.

Tax Legislation

Senate Bill 114 / House Bill 155 – Vehicle Training Tax Credit

Senate Bill 114 and House Bill 155 are companion bills that authorize tax credits for expense incurred by employers to train a commercial vehicle operator. These bills would allow businesses to take credits against the CAT. The bills had one hearing in the House and Senate. OMA met with both proponents of the bills and sponsors of the bills. Proponent and sponsors followed the advice of the OMA and removed the CAT from the list of taxes that could be credited.

Senate Bill 132 – Foreign Trade Zone CAT Credit

The bill would establish a five-year pilot program whereby taxpayers with facilities in Ohio with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources. OMA participated in an interested party meeting earlier this fall and expressed serious concern over the proposal.

House Bill 185 – Political Contributions Tax Credit

The bill expands the scope of political contributions that qualify for the income tax credit for contributions to political campaigns to candidates for any state, county, municipal, or district office. It had its first hearing last June.

Senate Bill 203 – Throw-Back Rule Reinstatement

The bill would reinstate the municipal income tax "throw-back rule" used in apportioning business income among municipalities. The throw-back rule was eliminated with OMA backing during the budget bill process.

House Bill 216 – Used Vehicle Trade-In Credit

The bill authorizes a sales and use tax trade-in credit for purchases of used motor vehicles from a licensed dealer. The bill had two hearings prior to the summer break last year.

House Bill 262 – Independent Budget Process

The bill would provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon

the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook. The bill was introduced and referred to committee last June.

Senate Bill 266 and House Bill 529 – Capital Bill

Earlier this year the House and Senate unveiled the capital appropriations budget bill. The bill is designed to fund capital improvement projects throughout the state. This year the bill focused on funding opioid treatment with \$222 million for health and human services projects.

Other major funding allocations included \$600 million for school construction, \$483 million for universities and community colleges, \$514 million for local infrastructure projects, \$234 million for parks, and \$147 million for local community projects.

The budget was quickly moved and approved in the spring.

House Bill 320 – Long-Range Financial Outlook Council

The bill creates the Long-Range Financial Outlook Council for the purpose of informing the public and the General Assembly about the financial status of the state by studying financial and other conditions and issuing an annual long-range financial outlook report. The bill had its second hearing in November.

House Bill 525 – Film Tax Credit-Live Theater

House Bill 525 would expand the current motion picture tax credit to live stage theater productions and increase the maximum amount of credits from \$40 million to \$100 million per fiscal year. The bill again is sponsored by Speaker Pro Tem Schuring which makes House passage a real possibility. The OMA testified questioning why Ohio would more than double the credit against the CAT. The House Finance Committee passed the bill last month. However instead of expanding the current amount from \$40 million to \$100 million, they instead only expanded the current amount to also cover live stage theater productions.

Capital Expenditure Investment Tax Credit

OMA tax committee members have been working on a capital expenditure tax credit bill that manufacturers could take advantage of in Ohio. OMA staff has been working with legislators for potential introduction this summer or fall.

Tax News

OMA Testifies on “Tax Expenditures”

Testifying before a special Tax Expenditure Review Committee, OMA’s Rob Brundrett, Director, Public Policy Services, urged the committee to protect the sales and use tax manufacturing exemption.

“The rationale for these exclusions is simple: The taxes are intended to be imposed upon the final consumption of goods and now, those selected services that are subject to tax. Intermediate transactions prior to the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed,” Brundrett said.

He recommended expansion of the exemption to: 1) temporary workers; 2) industrial janitorial and maintenance services; and 3) certain equipment and supplies used to clean food processing equipment.

The Tax Expenditure Review Committee met three times this spring reviewing a variety to tax exemptions.

U.S. Supreme Court Revisits Quill and Physical Presence

OMA Connections Partner, Clark, Schaefer, Hackett (CSH), posts: “On April 17th, the U.S. Supreme Court revisited Quill Corp. v. North Dakota, which held that in order for a state to impose sales tax on an out-of-state seller, the seller must have physical presence in the state. The case is being reviewed again because the recent South Dakota v. Wayfair, Inc. suit is asking that the Quill decision be repealed.

“... The Quill standard has enabled online sellers to forego collecting and remitting sales tax in states where the seller has no physical presence. The potential revenue loss for the states in uncollected sales tax is enormous – in the billions of dollars. ...

“It is difficult to predict which way the Court will decide this case. But no matter their decision, it will be binding precedent across the country. Either the physical presence standard will continue to be the law and Quill will be upheld, or the Court will overturn Quill and set forth new nexus standards. A decision is expected sometime in June ...”

Muni Tax Collection System Found to be Constitutional

A Franklin County Common Pleas Court judge dismissed a muni tax collection lawsuit brought by about 160 Ohio municipalities that challenged a new law that allows the State of Ohio to collect local business taxes.

House Bill 49, which was Gov. John Kasich’s two-year budget bill, allowed business owners the option to file municipal net profit tax returns directly with the Ohio Department of Taxation, instead of with the municipality in which the business operates.

OMA backed this law change because it streamlines the filing process for businesses, which often operate in multiple municipalities.

Tax Dept. Accepts OMA Request to Improve Mfg. Sales/Use Exemption

The Ohio Department of Taxation (ODT) released its latest draft of the Manufacturing Sales and Use Exemption rule review.

Reacting to the previous draft, the OMA working group had advocated for removing this language (4th paragraph, division (B)(1)): “However, the maintain (sic) materials in the same state or form as they are received or measuring raw materials to verify quantities received, does not constitute commitment,” thus arguing for a complete definition of tax exempt materials committed to the manufacturing process.

Responding to the OMA’s comments, ODT agreed to remove the objectionable provision from the draft rule. Keeping that language out of the rule would be a major win for manufacturers.

OMA Requests Senator Brown's Support on Money Market Reg Bill

The OMA asked Senator Sherrod Brown to support The Consumer Financial Choice and Capital Markets Preservation Act (Senate Bill 1117). The bill would reverse an October 2016 regulatory action by the Securities and Exchange Commission (SEC) that requires money market funds (MMFs) to account for their underlying net asset value (NAV) on a floating basis.

OMA wrote: "... This new SEC rule requires MMFs to account for their underlying net asset value (NAV) on a floating basis, rather from a fixed sum. This rule change has negatively impacted our larger members who issue commercial paper for short term borrowings.

"Prior to the rule change, the Prime MMFs were generally significant purchasers of commercial paper. These purchases provided a competitive market place for short term financing. ... Our members have relied on these fixed NAV MMFs as safe, efficient and reliable sources of short-term financing and cash management. ... Senate Bill 1117 would revert back to allowing MMFs underlying NAV to be fixed, as it was for 40 years prior to this recent SEC rule."



**BEFORE THE GOVERNMENT ACCOUNTABILITY AND OVERSIGHT COMMITTEE
OF THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE LOUIS BLESSING III, CHAIRMAN**

**TESTIMONY
OF
ROB BRUNDRETT
DIRECTOR, PUBLIC POLICY SERVICES
THE OHIO MANUFACTURERS' ASSOCIATION**

MARCH 20, 2018

Mr. Chairman and members of the Committee, my name is Rob Brundrett. I am the Director of Public Policy Services for The Ohio Manufacturers' Association (OMA). I am providing interested party testimony today on behalf of OMA regarding House Bill 525. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the powerhouse in Ohio's economy. In addition to copies of my testimony I have provided committee members with a copy of "2017 Ohio Manufacturing Counts." This book is prepared annually by the OMA to provide facts about the importance of manufacturing to Ohio's economy.

Manufacturing is the largest of the state's 20 industry sectors. Manufacturing contributed more than \$108 billion in GDP in 2016, the most recent year represented in this publication. This amounts to nearly 18% of the state's economy. The second largest industry sector is government at 11%. Ohio is the third largest manufacturing state in the U.S. following only California and Texas.

Almost 700,000 Ohioans work in manufacturing and these workers earn an average \$58,000 per year.

For Ohio to be successful in a global economy, the state's tax structure must encourage investment and growth and be competitive nationally and internationally. A globally competitive tax system is characterized by (a) certainty, (b) equity, (c) simplicity and (d) transparency. Economy of collections and convenience of payment also are important considerations.

Major tax reforms approved by the Ohio General Assembly in 2005 and additional reforms from 2011-2016 have led to significant improvements to Ohio's tax system. Reforms included reducing overall tax rates, eliminating tax on investment, broadening the tax base, providing more stable and predictable revenues, and simplifying compliance.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the reduction of the personal income tax rate as well as the creation of a broad-based, low-rate commercial activity tax.

The strength of the CAT is its broad base, its low rate, and its broad application to virtually all business entities. Those attributes can only be maintained when the state stands firm against individual carve-outs and exemptions for narrow interests.

When it was first enacted, there were few exclusions and credits from the CAT. The tax expenditure associated with those exclusions in 2010, the first year the tax was fully phased in, totaled approximately \$300 million. Those exclusions were built into the tax as enacted and the 0.26 percent rate was established with those exclusions in mind.

In its fiscal year 2018 tax expenditure report, the Department of Taxation lists a larger number of exclusions and credits to the CAT. The total cost of those expenditures, without consideration of the credits, is more than \$700 million! Thus, in just a little more than 10 years, additional credits and exclusions were added to the tax that doubled the amount of the tax expenditure.

The CAT is a stable tax. Although it is a gross receipts tax that pyramids along the economic chain, it is tolerated because of its broad base and low, low rate. However tax expenditures associated with the tax have doubled. Chipping away at the base can only continue so long before an increase in the rate becomes the only way to continue to collect comparable revenues. Ohio traveled down this path before with the franchise and personal property taxes. Ohio should not venture down that path with the CAT.

The CAT was enacted as a tax on commercial activity. *All* enterprises engaged in such activity should pay the CAT; in fact, equality in the burden of taxation demands that they all remain subject to the tax. Exemptions, exclusions and credits violate the rule of equality and render the tax less clear, less fair and more complicated.

House Bill 525 more than doubles the amount of CAT credits available under the motion picture tax credit. The more credits that are added to the tax the more pressure is on the remaining businesses subject to the CAT. With more exemptions and credits, pressure builds to raise the low rate to make up for the loss in revenue. If you review the attachment I have included with my testimony you will see that enacting this credit would have the fourth largest impact to the CAT.

It is important to understand where CAT exemption savings are invested. Does that money stay in Ohio or does it go to outside interests in New York, California, or some other state? If Ohio is looking to drive business in Ohio it should be creating tax credits for capital projects in Ohio for the benefit of Ohioans. These types of projects require investment from local businesses already on the ground, and the business is much less likely to walk away from Ohio at the completion of the credit because it has invested capital in the state.

Since the enactment of tax reform in 2005, OMA has maintained a principled, consistent approach to tax policy in Ohio. That approach insists on certainty, equity, simplicity, and transparency. The erosion of the tax reform legislation, in the form of carve-outs and exclusions to the CAT, creates disparity by selecting winners and losers, renders the tax more complicated, and reduces transparency as it becomes more difficult to determine who is entitled to which exclusions.

Thank you very much for the opportunity to appear here today. I'd be pleased to try to answer any questions that you might have.

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Commercial Activity Tax Impact

The Commercial Activity Tax (CAT), which took effect on July 1, 2005, is an annual tax imposed on the privilege of doing business in Ohio and is measured by gross receipts from business activities in the state. The CAT applies to business entities with taxable gross receipts of more than \$150,000 per calendar year, and is levied on a tiered basis:

<u>Taxable Gross Receipts</u>	<u>CAT</u>
\$150,000 - \$1 million	\$150 minimum tax
\$1 million - \$2 million	\$800 plus 0.26% of gross receipts greater than \$1 million
\$2 million - \$4 million	\$2,100 plus 0.26% of gross receipts greater than \$1 million
\$4 million or more	\$2,600 plus 0.26% of gross receipts greater than \$1 million

Impact on Manufacturers

According to Ohio Department of Taxation *Fiscal Year 2017 Commercial Activity Tax Returns* data, manufacturers are the second-largest group of CAT taxpayers, **representing 10.5% of all taxpayers** (retail trade is the largest). And yet . . .

- In terms of **CAT revenues** based only on the 0.26% CAT rate for gross receipts in excess of \$1 million, **manufacturers pay 28.2% of the state's total** – far more than any other group.
- In terms of **total CAT revenues** paid, including the minimum tax, manufacturers still pay the most as a group – **27.6% of all CAT before** credits and **24% of all CAT after** credits – generally twenty-two percent more than the next largest taxpayer group (retail trade).

See next page for the financial impact of CAT exclusions, deductions and credits.



Foregone Revenue from CAT Exclusions, Deductions and Credits

Below are estimates of revenue foregone in FY 2018 by the state General Revenue Fund from various CAT exclusions, deductions and credits.¹ Dollar amounts are millions.

Exclusion of first \$1 million of taxable gross receipts	\$252.2
Qualified distribution center receipts exclusion	\$169.0
Job creation credit	\$113.0
Job retention tax credit	\$63.6
Motion picture credit	\$40.0
Credit for increased qualified research and development expenses	\$36.9
Casino receipts in excess of "gross casino revenue"	>\$10.0 ²
Agricultural receipts	\$8.0
Professional employer organization exclusion	\$7.2
Credit for net operating loss carry forwards and other deferred tax assets	\$4.5
State and federal cigarette tax exclusion	\$4.1
Motor vehicle transfer exclusion	\$2.3
Exclusion of real estate brokerage gross receipts not retained	\$1.7
Consumer product integrated supply chain exclusion	\$1.6
Exclusion of certain services to financial institutions	\$1.5
State and federal alcoholic beverage excise tax exclusion	\$1.3
Exclusion for tax differential of CAT/PAT for railroads	\$1.0
Anti-neoplastic drug exclusion	\$1.0
Exemption for pre-1972 trusts	<\$1.0 ³
Horse racing taxes and purse exclusion	<\$1.0
Receipts from sale of uranium from qualifying uranium enrichment zone	<\$1.0
Providing public services exclusion	No Estimate Available
Petroleum receipts ⁴	No Estimate Available
Ohio Historic Preservation Tax Credit Program	No Estimate Available

Estimated Total Foregone Revenues **More than \$718.9 million**

NOTE: Actual total foregone revenues will be higher than estimated total foregone revenues, which reflect indefinite revenues for casino receipts and undetermined revenues for the public services exclusion, petroleum receipts and motion picture credit.

¹ Unless otherwise noted, the source for the data listed above is the Ohio Department of Taxation Tax Expenditure Report (Fiscal Years 2018-2019).

² Ohio Legislative Service Commission estimates foregone revenue from casino receipts in excess of "gross casino revenue" will be "tens of millions of dollars."

³ The Ohio Department of Taxation Tax Expenditure Report provides only general "less than \$1 million" estimates for three items in this list (rather than precise estimates as provided for the other items). For this reason, we have chosen not to include any foregone revenue for the three items with estimated foregone revenues of less than \$1 million each.

⁴ Motor vehicle fuel dealers pay a one-time tax of 0.65% on their sales of petroleum products.



**BEFORE THE TAX EXPENDITURE REVIEW COMMITTEE
SENATOR SCOTT OELSLAGER, CHAIRMAN**

**TESTIMONY
OF
ROB BRUNDRETT
DIRECTOR, PUBLIC POLICY SERVICES
THE OHIO MANUFACTURERS' ASSOCIATION**

APRIL 11, 2018

Mr. Chairman and members of the Committee, my name is Rob Brundrett. I am the Director of Public Policy Services for The Ohio Manufacturers' Association (OMA). The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the powerhouse in Ohio's economy. In addition to copies of my testimony, I have provided committee members with a copy of "2017 Ohio Manufacturing Counts." This book is prepared annually by the OMA to provide facts about the importance of manufacturing to Ohio's economy.

Manufacturing is the largest of the state's 20 industry sectors. Manufacturing contributed more than \$108 billion in GDP in 2016, the most recent year represented in this publication. This amounts to nearly 18% of the state's economy. The second largest industry sector is government at 11%. Ohio is the third largest manufacturing state in the U.S. following only California and Texas.

Almost 700,000 Ohioans work in manufacturing and these workers earn an average \$58,000 per year.

Ohio's Sales and Use Taxes

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was added. Similar exclusions were made for other activities that, similarly, resulted in the production of goods that would be subject to the tax upon final sale.

The rationale for these exclusions is simple: The taxes are intended to be imposed upon the final consumption of goods and, now, those selected services that are subject to tax. Intermediate transactions prior to the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed. The basis for this is four-fold:

First, imposing the tax on intermediate transactions (sometimes called business inputs) causes the tax to be imposed at each step in the production of a good. This causes the tax to pyramid at each step of the economic ladder, resulting in an effective tax rate that may be much higher than the statutory rate. For example, in conjunction with the 1994 tax study commissioned by the General Assembly, the staff provided an example in which a sales tax rate of 6.5 percent applied to two stages of production resulted in an effective tax rate of 9.5 percent at the time of the final retail sale.¹

Second, imposing the tax on business inputs increases the cost of doing business through the higher prices that result from the tax. Business generally will respond to higher costs in a combination of three ways: It may decide to charge higher prices; it may pay lower wages to workers (or expatriate those positions elsewhere); or it may provide a lower return on investment to owners.²

Third, direct inputs lead to the production of more valuable goods that are ultimately subject to the tax.

Fourth, the provision has economic development implications. Every single state that surrounds Ohio has a sales tax. Every one of those states has some sort of exemption from the tax for machinery and equipment used in the production of tangible goods to be sold by manufacturers. Moreover, the *1994 Study* also found that lower rates of taxation on business equipment increase the rate of business formation of smaller firms. Thus, imposing the sales tax on manufacturing machinery and equipment puts Ohio at a disadvantage from an economic development perspective.³

The application of sales and use taxes to business inputs has been the subject of comment on at least two prior occasions in Ohio. In 1982, the Final Report and Recommendations of the Joint Committee to Study State Taxes (114th General

¹ Roy Bahl, Ed., *Taxation and Economic Development: A Blueprint for Tax Reform in Ohio* (Battelle Press 1994), p. 277-278 (the "1994 Staff Report").

² *Taxation and Economic Development in Ohio: A Blueprint for the Future*, Final Report of the Commission to Study the Ohio Economy and Tax Structure (December 23, 1994), p. iii ("1994 Study").

³ *Id.*, at p. 5-4.

Assembly, December 1982), pp. 15-16 concluded that the taxes should be imposed broadly on consumer spending, but very selectively on business spending. Similarly, the *1994 Study* at p. 5-4 and the *1994 Staff Report* at p. 27 both recognized that the sales tax should only be imposed upon the final consumer and that business inputs should not be taxed at all. The taxation of business inputs should be avoided because doing so leads to multiple levels of taxation and economic disadvantages. Moreover, the *1994 Report* concluded that if the sales tax is extended to services, there should be liberal exemptions for transactions between businesses.

Manufacturing Exemptions for Tangible Personal Property are Not Absolute

Manufacturers enjoy exemption for three categories of purchases:

- Machinery and equipment used primarily during and in the manufacturing process
- Ingredients and materials that are incorporated into the final product that is produced for sale
- Packages and packaging equipment

However, this does not mean that manufacturers do not pay sales and use taxes in Ohio. Manufacturers purchase and use many goods and services that are not included in the manufacturing exemptions. Those items include machinery and equipment that are used before manufacturing begins, or after it ends; cleaning equipment and supplies; maintenance and repair equipment and supplies; storage facilities; most safety items; and office supplies and equipment and motor vehicles. As a result, manufacturers pay millions of dollars in sales and use taxes annually to the state of Ohio.

According to the 2017 Annual Report of the Ohio Department of Taxation, manufacturers as an economic segment paid more than \$483 million in sales and use taxes directly to the state of Ohio. This is in addition to the untold millions of tax dollars that were paid to, and reported by, vendors and retailers located in Ohio. It appears that

in terms of tax directly owed to the state, as opposed to tax that is collected from others, manufacturing is one of the largest payers of sales and use taxes in the state.

The Exemption Should Not Be Repealed

Repeal of the manufacturing exemption should not be considered.

First, repeal is contrary to the recent efforts of Ohio tax policy to move away from the taxation of economic investment and towards personal consumption. Manufacturers invest in manufacturing machinery and equipment in order to expand or maintain their capacity to provide jobs and to produce a product for sale, a product that in most cases will be subject to the sales and use taxes when it is sold and used.

Since 2005, Ohio has attempted to move away from the taxation of business investment. It eliminated the tax on business tangible personal property. It eliminated the net worth base of the corporation franchise tax. And, it excludes from the commercial activity tax receipts in the nature of a return on investment. As noted earlier in my remarks, the purchase of machinery and equipment by manufacturers is not final consumption. Rather, it reflects an investment in the business. The sales tax exemption for manufacturing machinery and equipment is consistent with this policy.

Imposing the sales tax on business inputs, including manufacturing machinery and equipment (and labor) is contrary to sound tax policy. As previous tax study commissions⁴ have concluded, good tax policy is based on simplicity, equity, stability, neutrality and competitiveness. Removing the exemption and subjecting those purchases to tax will render the tax more opaque, more complex, and less fair as final consumers will pay an even higher proportion of their family income in sales taxes. Removing the exemption violates the principles of neutrality and competitiveness as it results in higher costs, which may influence economic decisions and competitiveness. Taken together, all these factors may in fact render the tax less stable.

⁴ 1994 Study, p. 5-1; *Report of the Committee to Study State and Local Taxes*, March 1, 2003, p. 6.

Exclusion of Services as Manufacturing Inputs

There many additional cases in which the sales or use tax should be amended to exclude specific manufacturing service inputs. I'll briefly describe three specific recommendations involving: 1) temporary workers; 2) industrial janitorial and maintenance services; and 3) certain equipment and supplies used to clean food processing equipment.

One, Ohio does not impose sales or use taxes (or the CAT) on the wages paid to employees. Just as wages are not subject to such taxes, and business inputs, such as ingredients, machinery and equipment, are exempted from the sales and use taxes, so too should amounts paid for temporary employees engaged in manufacturing activities that are otherwise exempt from the tax. Such temporary employees are a business input; the sales tax should not apply to transactions by which such labor is obtained (See attached OMA House Bill 343 Testimony, 131st General Assembly).

Two, Ohio also taxes industrial janitorial and maintenance services. Manufacturers' production facilities and the equipment components of their production processes require continuous repair and maintenance. Without the required cleaning, repairs and maintenance the machinery breaks down and fails to produce acceptable products for sale to customers. Cleaning industrial assets is absolutely critical to the manufacturing process. It is a necessary business input and sales tax should not apply.

Three, Ohio law currently exempts the equipment and supplies used to clean processing equipment that is part of a continuous manufacturing operation to produce, milk, ice cream, yogurt, cheese, and similar dairy products for human consumption. This exemption was born out of a court case many years ago. This exemption is limited to one type of manufacturer who was party to that court case. However the reasons why the exemption makes sense to dairy manufacturers also apply to a variety of other food manufacturers who use clean-in-place technology to ensure that the food all of us eat is safe.

Conclusion

In conclusion, the manufacturing exemption is founded on sound tax and economic policy. The sales and use taxes are intended to be taxes on ultimate household consumption; they are not intended to apply to business inputs or to intermediate transactions. Applying the taxes to transactions involving the investment in manufacturing machinery and equipment increases the cost of the goods that are produced, negatively impacts economic decisions, and may place Ohio at a disadvantage when it comes to economic development. That isn't good policy. It ought not to be the policy of Ohio.

Thank you. I'll be pleased to try to answer any questions you may have.



**BEFORE THE ECONOMIC AND WORKFORCE DEVELOPMENT COMMITTEE
THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE NAN BAKER, CHAIR**

**HOUSE BILL 343
TESTIMONY
OF
LUKE HARMS
SENIOR MANAGER, GOVERNMENT RELATIONS
WHIRLPOOL CORPORATION**

NOVEMBER 18, 2015

Chair Baker and members of the Committee, my name is Luke Harms. I'm Senior Manager of Government Relations at Whirlpool Corporation. Whirlpool is the number one appliance manufacturer in the world, with approximately 100,000 employees and 70 manufacturing and technology centers. Here in Ohio, Whirlpool has five manufacturing facilities with approximately 10,000 employees.

I'm testifying here today on behalf of The Ohio Manufacturers' Association (OMA) with respect to House Bill 343, which proposes to repeal the sales tax on employment services. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has 1400 members. Its mission is to protect and grow Ohio manufacturing.

Today I will provide you with background information about the existing sales tax exemption provided to manufacturers with respect to the purchase and use of machinery and equipment used in a manufacturing operation to produce tangible personal property for sale. I will cover the sound policy reasons to extend such tax treatment to employment services.

Ohio's Sales and Use Taxes

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was added. Similar exclusions were made for other activities that, similarly, resulted in the production of goods that would be subject to the tax upon final sale.

The rationale for these exclusions is simple: The taxes are intended to be imposed upon the final consumption of goods and, now, those selected services that are subject to tax. Intermediate transactions prior to the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed. The basis for this is four-fold:

First, imposing the tax on intermediate transactions (sometimes called business inputs) causes the tax to be imposed at each step in the production of a good. This causes the tax to pyramid at each step of the economic ladder, resulting in an effective tax rate that may be much higher than the statutory rate. For example, in conjunction with the 1994 tax study commissioned by the General Assembly, the staff provided an example in which a sales tax rate of 6.5 percent applied to two stages of production resulted in an effective tax rate of 9.5 percent at the time of the final retail sale.¹

Second, imposing the tax on business inputs increases the cost of doing business through the higher prices that result from the tax. Business generally will respond to higher costs in combination of three ways: It may decide to charge higher prices; it may pay lower wages to workers (or expatriate those positions elsewhere); or it may provide a lower return on investment to owners.²

Third, direct inputs lead to the production of more valuable goods that are ultimately subject to the tax.

Fourth, the provision has economic development implications. Every single state that surrounds Ohio has a sales tax. Every one of those states has some sort of exemption from the tax for machinery and equipment used in the production of tangible goods to be sold by manufacturers. Moreover, the *1994 Study* also found that lower rates of taxation on business equipment increase the rate of business formation of smaller firms. Thus, imposing the sales tax on manufacturing machinery and equipment puts Ohio at a disadvantage from an economic development perspective.³

The application of sales and use taxes to business inputs has been the subject of comment on at least two prior occasions in Ohio. In 1982, the Final Report and Recommendations of the Joint Committee to Study State Taxes (114th General

¹ Roy Bahl, Ed., *Taxation and Economic Development: A Blueprint for Tax Reform in Ohio* (Battelle Press 1994), p. 277-278 (the "1994 Staff Report").

² *Taxation and Economic Development in Ohio: A Blueprint for the Future*, Final Report of the Commission to Study the Ohio Economy and Tax Structure (December 23, 1994), p. iii ("1994 Study").

³ *Id.*, at p. 5-4.

Assembly, December 1982), pp. 15-16 concluded that the taxes should be imposed broadly on consumer spending, but very selectively on business spending. Similarly, the *1994 Study* at p. 5-4 and the *1994 Staff Report* at p. 27 both recognized that the sales tax should only be imposed upon the final consumer and that business inputs should not be taxed at all. The taxation of business inputs should be avoided because doing so leads to multiple levels of taxation and economic disadvantages. Moreover, the *1994 Report* concluded that if the sales tax is extended to services, there should be liberal exemptions for transactions between businesses.

Manufacturing Exemptions for Tangible Personal Property Is Not Absolute

Manufacturers enjoy exemption for three categories of purchases:

- Machinery and equipment used primarily during and in the manufacturing process
- Ingredients and materials that are incorporated into the final product that is produced for sale
- Packages and packaging equipment

However, this does not mean that manufacturers do not pay sales and use taxes in Ohio. Manufacturers purchase and use many goods and services that are not included in the manufacturing exemptions. Those items include machinery and equipment that is used before manufacturing begins, or after it ends; cleaning equipment and supplies; maintenance and repair equipment and supplies; storage facilities; most safety items; and office supplies and equipment and motor vehicles. As a result, manufacturers pay millions of dollars in sales and use taxes annually to the state of Ohio.

According to the 2014 Annual Report of the Ohio Department of Taxation, manufacturers as an economic segment paid more than \$410,000,000 in sales and use taxes directly to the state of Ohio. This is in addition to the untold millions of tax dollars that were paid to, and reported by, vendors and retailers located in Ohio. It appears that in terms of tax directly owed to the state, as opposed to tax that is collected from others, manufacturing is one of the largest payers of sales and use taxes in the state.

The Tax on Employment Services

Effective January 1993, in order to fill a hole in the state budget, employment services were added as a taxable service by a conference committee facing a midnight deadline to reach agreement on a new budget. A taxable “employment service” included any transaction in which a person provides personnel to perform work under the supervision or control of another, whether on a short- or long-term basis, where the personnel are paid by the person who provided them. The entire amount paid for the service served as the base on which the tax was calculated.

Originally, four categories of transactions were excluded from the definition. Those four categories include:

- Transactions between members of an affiliated group;
- Persons providing medical and health care services;
- Persons providing contracting and subcontracting services; and
- Persons assigned to another pursuant to a contract of at least a year in duration that specifies that each employee covered by the agreement is “permanently” assigned to the purchaser.

A fifth category, involving services that were resold, was later added to the statute.

The tax generated a great deal of revenue, more than was expected, and the Department became more and more aggressive when it came to auditing the issue. The result was increased uncertainty on the part of business and increased time and expense in litigation responding to the aggressive enforcement activities of the Department.

For example, many manufacturers had begun employing temporary labor as a means of providing extra flexibility in meeting their workforce needs. Whether on a “temp-to-hire” basis, or as a means of meeting temporary up-ticks in production activities, manufacturers increasingly turned to vendors of temporary employees to fill those needs. Not surprisingly, many of those manufacturers assumed that the existing manufacturing exemption, which exempted purchases of machinery and equipment

used to produce tangible personal property for sale in a continuous manufacturing operation, would also cover workers on the manufacturing floor that operated the exempt equipment. Manufacturers and other purchasers of employment services also believed that in appropriate circumstances the services would be resold. After protracted litigation, they were soon disabused of both notions.

Another area that served fertile for litigation was the exclusion for employees that were “permanently assigned” to the purchaser. As noted previously, there were two conditions to this exclusion. First, the employees had to be provided pursuant to an agreement of a least a year in duration. Second, the agreement had to “specify” that the employees were provided to the purchaser on a “permanent” basis.

This provision likewise resulted in a flood of litigation involving issues such as

- Whether the agreement had to be written, or whether an oral agreement would suffice.
- The length of the term of the agreement, especially those that renewed or were cancelable at will.
- The meaning of the requirement that employees be “permanently assigned” to the purchaser.
- Whether the mere recitation of language in a service agreement that employees were permanently assigned was sufficient; or whether the course of conduct between the parties also had to establish that the positions were indeed indefinite.

The Department of Taxation continues to pursue employment services aggressively. It argues that employee turnover is a sign that the employees are not permanently assigned. It also takes the position that an agreement must set forth the name of every employee covered by the agreement, and that if any of the employees provided under an agreement are not provided on an indefinite basis, then the entire agreement is tainted and none of the employees qualify for the exclusion.

In recent audits, the Department takes the position that virtually any transaction involving personnel was a taxable employment service. Thus, transactions in which outside consultants are retained to provide services, such as computer and software design, an engineer, or a skilled tradesperson, are routinely picked up on audit as employment services.

The Tax on Employment Services Should Be Repealed

House Bill 343 proposes to do away with the tax on employment services completely. The bill deletes “employment services” from the list of taxable transactions in R.C. 5739.01(B)(3)(k); it deletes the definition of “employment services” found in R.C. 5739.01(JJ); and deletes reference to the provision in other statutes.

Repeal of this provision reflects sound policy.

First, repeal is consistent with the recent efforts of Ohio tax policy to move away from the taxation of economic investment and towards personal consumption. Manufacturers invest in manufacturing machinery and equipment in order to expand or maintain their capacity to provide jobs and to produce a product for sale, a product that in most cases will be subject to the sales and use taxes when it is sold and used.

Since 2005, Ohio has attempted to move away from the taxation of business investment. It eliminated the tax on business tangible personal property. It eliminated the net worth base of the corporation franchise tax. And, it excludes from the commercial activity tax, receipts in the nature of a return on investment, including labor costs. Repealing the sales tax on employment services is consistent with this policy.

Second, imposing the sales tax on business inputs, including manufacturing machinery and equipment and labor is contrary to sound tax policy. As previous tax study commissions⁴ have concluded, good tax policy is based on simplicity, equity, stability, neutrality and competitiveness. Subjecting employment services to tax renders the tax more opaque, more complex, and less fair as final consumers who are less

⁴ 1994 Study, p. 5-1; *Report of the Committee to Study State and Local Taxes*, March 1, 2003, p. 6.

economically advantaged pay an even higher proportion of their family income in sales taxes. The tax on employment services violates the principles of neutrality and competitiveness as it results in higher costs, which may influence economic decisions and competitiveness. Taken together, all these factors may in fact render the tax less stable.

Just as wages are not subject to sales and use taxes; and business inputs, such as ingredients, machinery and equipment, are exempted from the sales and use taxes, so too should amounts paid for temporary employees engaged in manufacturing activities be excluded from the tax. Employees are a business input; the sales tax should not apply to transactions by which such labor is obtained.

Third, the provision has generated more and more litigation as the Department has taken increasingly aggressive positions with respect to it. The provision is neither clear, nor is it easy to administer.

Temporary employment services play a critical role for manufacturers. At Whirlpool, temporary employees help the company manage seasonal demand changes for appliances. For example, our KitchenAid small appliance factory in Greenville has much higher shipment levels in the months leading up to the holiday season and our major appliance factories in Clyde, Marion, Findlay and Ottawa also see a significant uptick in shipments in the summer, driven by increased home construction and renovations. Temporary employment services not only help us avoid layoffs, but they help recruit skilled workers, many of whom eventually become Whirlpool employees. We compete in a competitive global environment. The products we produce here in Ohio must compete every day with imported appliances from Mexico, China and many other countries.

In conclusion, the impact of H.B. 343, to repeal the imposition of sales and use taxes on temporary employment services is not only founded on sound tax and economic policy, but will help Ohio manufacturers like Whirlpool to remain globally competitive. The sales and use taxes are intended to be taxes on ultimate household consumption; they are not intended to apply to business inputs or to intermediate transactions. Applying

the taxes to transactions involving the investment in labor, especially in labor to operate manufacturing machinery and equipment increases the cost of the goods that are produced, negatively impacts economic decisions, and may place Ohio at a disadvantage when it comes to economic development. That isn't good policy. It ought not to be the policy of Ohio.

Thank you. I'll be pleased to answer any questions you may have.



Department of
Taxation

(For Immediate Release)

Court Upholds State Law Changing Municipal Tax System

Judge David Cain, Franklin County Common Pleas Court, today (2-21-18) denied a challenge by more than 160 municipalities to a state law creating a new option for Ohio businesses subject to the municipal net profit tax. Judge Cain's ruling both denied a request for a preliminary injunction to block the law and granted final judgement in favor of the State of Ohio.

The ruling upholds the constitutionality of a law (H.B. 49) passed in 2017 by the Ohio General Assembly authorizing an optional, centralized system administered by the Ohio Department of Taxation. The ruling affirmed the General Assembly's long-standing authority to limit local taxation; the law does not impinge on home rule.

Tax Commissioner Joe Testa said the ruling validates the efforts to improve the municipal tax system in Ohio.

"We are pleased that the court found this law to be constitutional. It's an important ruling for business taxpayers in Ohio who for too long have had to deal with this costly, complex process for local tax on business income. This law gives business taxpayers the opportunity to save millions of dollars in the cost of complying with the fragmented municipal tax system. Businesses that want to take advantage of the state's new streamlined system for 2018 taxes have a deadline of March 1 to register through the Ohio Business Gateway. "

(OBG web site is: www.ohiobusinessgateway.ohio.gov)

Testa said the business community has for years urged the state to improve the municipal tax system. He said he's gratified that Ohio now has a better option for businesses to deal with the municipal net profit tax.

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(For questions, please contact Gary Gudmundson, Communications Director, Ohio Department of Taxation at 614,466.0099, or gary.gudmundson@tax.state.oh.us)

Tax

Complying with the EU General Data Protection Regulation

May 25, 2018

Here's an **infographic** from OMA Connections Partner, RSM, representing seven misconceptions about the General Data Protection Regulation (GDPR), a regulation in European Union (EU) law on data protection and privacy for all individuals within the EU. Companies that don't think they have EU data sometimes do. **Read more here.** 5/24/2018

The Facts about ESOPs

May 18, 2018

From OMA Connections Partner, GBQ Partners: "A large number of privately-held U.S. companies are owned by members of the "baby boomer" generation, and with these owners approaching retirement age, many are considering an Employee Stock Ownership Plan ("ESOP") as a way to easily liquidate their ownership while receiving "fair market value." An ESOP is a qualified retirement plan, similar to a 401(k), which allows the employees of a company to become owners of the stock of their employer."

See **some facts** gathered by GBQ about U.S. ESOP companies. 5/15/2018

IRS Sheds Some Light on Business Interest Expense Deductions

May 4, 2018

Here's a recent post from OMA Connections Partner, Clark, Schaefer, Hackett: "The Tax Cuts and Jobs Act (TCJA) imposes a limit on deductions for business interest for taxable years beginning in 2018. The limit, like other aspects of the law, has raised some questions for taxpayers. In response, the IRS has issued temporary guidance in Notice 2018-28 that taxpayers can rely on until it releases regulations. While the guidance provides some valuable information, it also leaves some questions unanswered."

Read more from CSH here. 4/30/2018

U.S. Supreme Court Revisits Quill and Physical Presence

April 27, 2018

OMA Connections Partner, Clark, Schaefer, Hackett (CSH), posts: "On April 17th, the U.S. Supreme Court revisited *Quill Corp. v. North Dakota*, which held that in order for a state to impose sales tax on an out-of-state seller, the seller must have physical presence in the state. The case is being reviewed again because the recent *South Dakota v. Wayfair, Inc.* suit is asking that the Quill decision be repealed. "... The *Quill* standard has enabled online sellers to forego collecting and remitting sales tax in states where the seller has no physical presence. The potential revenue loss for the states in uncollected sales tax is enormous – in the billions of dollars. ... "It is difficult to predict which way the Court will decide this case. But no matter their decision, it will be binding precedent across the country. Either the physical presence standard will continue to be the law and *Quill* will be upheld, or the Court will overturn *Quill* and set forth new nexus standards. A decision is expected sometime in June ... " **Read more from CSH about the case here.** 4/24/2018

Reporting Unclaimed Funds: What Is Your Responsibility?

April 27, 2018

All businesses that are located and/or operate in the state of Ohio are required to file an Annual Report of Unclaimed Funds with the division per Ohio Administrative Code Section 169.01.

A few points about businesses' reporting requirements:

- There are no minimum reportable dollar amounts, except for unclaimed wages less than \$50.00.
- Businesses must file a report annually. Businesses not holding any unclaimed funds must still file a Negative (NONE) Report.

Learn [more here](#). 4/25/2018

IRS Blended Tax Rate Guidance for Fiscal Year-end Corporations

April 23, 2018

OMA Connections Partner, RSM, posted this Tax Alert: “The 21 percent federal corporate tax rate now in effect applies to tax years beginning after Dec. 31, 2017. Previously, the maximum federal corporate tax rate was 35 percent. For a corporation’s fiscal year or companies with tax years that begin before Dec. 31, 2017, but end after that date (an Affected Fiscal Year) – for example, a year beginning Oct. 1, 2017 and ending Sept. 30, 2018, – a blended rate applies.

“The IRS has released **Notice 2018-38**, explaining how to apply the blended rate under section 15 of the Tax Code, as well as news release **IR-2018-99**, conveying the basic message that for Affected Fiscal Years, the blended rate applies in lieu of either the new 21 percent rate or the tax rate applicable under old law.”

Read [more from RSM here](#). 4/19/2018

OMA Testifies on “Tax Expenditures”

April 13, 2018

Testifying before a special Tax Expenditure Review Committee, OMA’s Rob Brundrett, Director, Public Policy Services, **urged the committee** to protect the sales and use tax manufacturing exemption.

“The rationale for these exclusions is simple: The taxes are intended to be imposed upon the final consumption of goods and now, those selected services that are subject to tax. Intermediate transactions prior to the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed,” Brundrett said.

He recommended expansion of the exemption to: 1) temporary workers; 2) industrial janitorial and maintenance services; and 3) certain equipment and supplies used to clean food processing equipment. 4/11/2018

Ohio Ranks 11th in Tax Burden

April 13, 2018

Every year around tax filing day, the website WalletHub ranks the 50 states across the three

tax types of state tax burdens — property taxes, individual income taxes and sales and excise taxes — as a share of total personal income in the state.

This year **Ohio ranks 11th** (highest tax burden) among the states. The total tax burden is 9.48% in Ohio. That is higher than any of our surrounding states. In the Midwest, only Illinois and Minnesota are higher. 4/9/2018

Taxation Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on June 5, 2018

- HB11** **INCORPORATING FEDERAL REVENUE CHANGES** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since February 14, 2016, into Ohio law.
Current Status: 3/30/2017 - **SIGNED BY GOVERNOR**; eff. 3/30/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-11>
- HB49** **OPERATING BUDGET** (SMITH R) Creates FY 2018-2019 main operating budget.
Current Status: 8/22/2017 - Consideration of Governor's Veto
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-49>
- HB61** **TAX EXEMPTION-FEMININE PRODUCTS** (JOHNSON G, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
Current Status: 10/10/2017 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-61>
- HB70** **FUEL TAX TRANSPARENCY** (MERRIN D) To enact the "Fuel Tax Transparency Act" requiring stickers to be placed on retail service station pumps displaying the rates of federal and state taxes applicable to gasoline and diesel fuel.
Current Status: 3/15/2017 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-70>
- HB86** **MINIMUM WAGE INCREASE** (SMITH K, CRAIG H) To increase the state minimum wage to ten dollars and ten cents per hour beginning January 1, 2019.
Current Status: 2/28/2017 - Referred to Committee House Economic Development, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-86>
- HB89** **AUGUST SALES TAX HOLIDAY** (PATTERSON J, KELLY B) To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.
Current Status: 2/28/2017 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-89>
- HB104** **TAX REFUND ON BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for bad debts on private label credit accounts when the debt is charged off as uncollectible by the credit account lender.
Current Status: 4/17/2018 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-104>
- HB133** **DISASTER RELIEF ACT** (RYAN S) To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared

disaster.

Current Status: 5/16/2018 - **PASSED BY SENATE**; Vote 31-0

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-133>

HB155 VEHICLE TRAINING TAX CREDIT (SPRAGUE R, HOWSE S) To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.

Current Status: 5/15/2018 - **BILL AMENDED**, House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-155>

HB162 TAX CREDIT-SOUND RECORDING (SMITH K, LATOURETTE S) To authorize a refundable income tax credit for individual investors in a sound recording production company equal to a portion of the company's costs for a recording production or recording infrastructure project in Ohio.

Current Status: 5/9/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-162>

HB173 IN-HOME EMPLOYEES TAX CREDIT (LATOURETTE S, PATTON T) To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.

Current Status: 5/9/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-173>

HB177 TAX EXEMPTION-COMMUNITY GYMS (WEST T) To exempt memberships to gyms or other recreational facilities operated by charitable organizations from sales and use taxation.

Current Status: 11/14/2017 - House Ways and Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-177>

HB185 POLITICAL CONTRIBUTIONS TAX CREDIT (HAMBLEY S) To expand the scope of political contributions that qualify for the income tax credit for contributions to political campaigns to candidates for any state, county, municipal, or district office.

Current Status: 6/6/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-185>

HB216 USED VEHICLE TRADE-IN CREDIT (HAMBLEY S, BRINKMAN T) To authorize a sales and use tax trade-in credit for purchases of used motor vehicles from a licensed dealer.

Current Status: 6/6/2017 - House Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-216>

HB243 FIREWOOD SALES TAX (PATTERSON J, CERA J) To exempt from sales and use taxation the bulk sale of firewood and certain other heating fuels, and to reimburse the Local Government Fund and Public Library Fund and county and transit sales tax collections for the resulting revenue losses.

Current Status: 6/20/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-243>

- HB262** **INDEPENDENT BUDGET PROCESS** (BUTLER, JR. J, ROMANCHUK M) To provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook.
Current Status: 6/20/2017 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-262>
- HB314** **LAW ENFORCEMENT TAX CREDIT** (SCHAFFER T) To allow an income tax credit for law enforcement officials who purchase safety or protective items to be used in the course of official law enforcement activities.
Current Status: 2/14/2018 - **REPORTED OUT AS AMENDED**, House State and Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-314>
- HB320** **LONG-RANGE FINANCIAL OUTLOOK COUNCIL** (HAGAN C, ROEGNER K) To create the Long-range Financial Outlook Council for the purpose of informing the public and the General Assembly about the financial status of the state by studying financial and other conditions and issuing an annual long-range financial outlook report.
Current Status: 11/28/2017 - House Financial Institutions, Housing and Urban Development, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-320>
- HB337** **TEXTBOOK SALES TAX EXEMPTION** (DUFFEY M) To exempt from sales and use tax textbooks purchased by post-secondary students.
Current Status: 2/20/2018 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-337>
- HB342** **LOCAL TAX ISSUES-ELECTION DATES** (MERRIN D) To permit local tax-related proposals to appear only on general and primary election ballots and not on an August special election ballot and to modify the information conveyed in election notices and ballot language for property tax levies.
Current Status: 4/18/2018 - **REPORTED OUT AS AMENDED**, House Government Accountability and Oversight, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-342>
- HB351** **NOAA AND PHS TAX EXEMPTION** (PERALES R, BUTLER, JR. J) To require municipal corporations to exempt from taxation the military pay of members of the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service.
Current Status: 6/6/2018 - Senate Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-351>

- HB361** **PROPERTY TAX COMPLAINTS TIMEFRAME** (GREENSPAN D) To increase the time within which boards of revision must decide property tax complaints.
Current Status: 12/5/2017 - **REPORTED OUT**, House Government Accountability and Oversight, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-361>
- HB371** **TAXES ON UNSOLD PROPERTY** (MERRIN D) To exempt from property taxation the increased value of land subdivided for residential development until construction commences or the land is sold.
Current Status: 3/1/2018 - Re-Referred to Committee
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-371>
- HB441** **TAX RETURN-PREPAID CARD** (LANESE L, DEVER J) To allow the Department of Taxation to provide taxpayers who file electronic returns the option of receiving their income tax refund in the form of a prepaid card.
Current Status: 4/10/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-441>
- HB460** **RIPARIAN BUFFERS-TAX EXEMPTION** (PATTERSON J, SHEEHY M) To exempt qualifying riparian buffers in the Western Basin of Lake Erie from property taxation, to reimburse local taxing units for resulting revenue losses, and to require soil and water conservation districts to assist landowners with the creation and maintenance of riparian buffers.
Current Status: 2/13/2018 - House Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-460>
- HB525** **FILM TAX CREDIT-LIVE THEATER** (SCHURING K) To extend eligibility for the motion picture tax credit to certain live stage theater productions, to increase the maximum amount of credits that may be awarded from \$40 million to \$100 million per fiscal year, and to make other revisions to the law governing administration of the credit.
Current Status: 5/22/2018 - **REPORTED OUT AS AMENDED**, House Government Accountability and Oversight, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-525>
- HB529** **CAPITAL APPROPRIATIONS** (RYAN S) To make capital appropriations and changes to the law governing capital projects and to make reappropriations for the biennium ending June 30, 2020.
Current Status: 3/30/2018 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-529>
- HB545** **SALES TAX AFTER PURCHASE** (ARNDT S) To authorize small retailers to remit sales taxes when the retailer receives payment from the purchaser if the payment is received after the purchased item is delivered or the service is provided.

Current Status: 5/22/2018 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-545>

HB569 SALES TAX-BUSINESS ELECTRONIC SERVICES (LIPPS S, REINEKE W) To modify the standard for determining when the sales and use tax applies to business-related electronic services that are provided together with other services.

Current Status: 4/10/2018 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-569>

HB575 TAX CREDIT-VOLUNTEER FIREFIGHTER/EMS (KELLER C, REZABEK J) To grant income tax credits to persons who serve as volunteer firefighters or emergency medical service technicians.

Current Status: 6/5/2018 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-575>

HB606 TAX EXEMPTION-MAPLE SAP (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction and to reimburse, up to \$3 million per year, local governments for revenue lost from the exemption.

Current Status: 5/15/2018 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-606>

HB641 FORKLIFT TAX EXEMPTION (ANTANI N) To exempt from sales and use tax things purchased by an interstate logistics business and used primarily to move completed manufactured products to the point from which they are shipped from a manufacturing facility and related power sources.

Current Status: 5/22/2018 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-641>

HB670 MUNICIPAL TAX WITHHOLDING (BARNES, JR. J) To enact the "Simplified Alternative Withholding Tax Compliance Act" authorizing an employer to enter into an agreement with a municipal tax administrator to prescribe, subject to certain parameters, the portion of nonresident employee wages that will be subject to the municipal corporation's income tax.

Current Status: 5/22/2018 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-670>

SB9 AUGUST TAX HOLIDAY (BACON K) To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.

Current Status: 6/13/2017 - **SIGNED BY GOVERNOR**; eff. 6/13/17
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-9>

SB36 AGRICULTURAL COMPUTATION (HITE C) To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV

land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.

Current Status: 5/16/2017 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-36>

SB65 ENERGY STAR TAX HOLIDAY (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65>

SB114 CDL TRAINING TAX CREDIT (HITE C) To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.

Current Status: 5/3/2017 - Senate Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-114>

SB123 PROPERTY TAX COMPLAINT PROCESS (COLEY W) To limit the right to initiate most types of property tax complaints to the property owner and the county recorder of the county in which the property is located.

Current Status: 6/14/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-123>

SB131 EMPLOYEE COMPENSATION-TAX CREDITS (DOLAN M) To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.

Current Status: 6/6/2017 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-131>

SB132 TAX CREDIT-FOREIGN TRADE (DOLAN M, EKLUND J) To establish a five-year pilot program whereby taxpayers with facilities in this state with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources.

Current Status: 4/26/2017 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-132>

SB147 OHIO RURAL JOBS ACT (HITE C) To enact the "Ohio Rural Jobs Act" which authorizes a nonrefundable tax credit for insurance companies that invest in rural business growth funds, which are certified to provide capital to rural and agricultural businesses.

Current Status: 9/27/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-147>

SB176 MUNICIPAL INCOME TAX RESTRICTIONS (JORDAN K) To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident.

Current Status: 9/7/2017 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-176>

SB187 **DELINQUENT MUNICIPAL INCOME TAXES** (EKLUND J, WILSON S) To allow municipal corporations to charge delinquent taxpayers the costs of collecting municipal income taxes regardless of whether the costs are incurred before or after a judgment is entered against the taxpayer.

Current Status: 11/7/2017 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-187>

SB203 **MUNICIPAL TAX RULE REINSTATEMENT** (DOLAN M) To reinstate the municipal income tax "throw-back rule" used in apportioning business income among municipalities.

Current Status: 11/15/2017 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-203>

SB209 **PROPERTY TAX EXEMPTIONS-TIF** (COLEY W, EKLUND J) To modify the conditions that determine the relative priority of property tax exemptions when a parcel subject to a tax increment financing arrangement concurrently qualifies for another exemption.

Current Status: 10/25/2017 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-209>

SB224 **GOODS TAXATION-FOREIGN DELIVERY** (EKLUND J) To exempt from sales and use tax goods purchased by a foreign citizen or entity if the goods are in Ohio only temporarily for package consolidation before being delivered to a foreign address, and to declare an emergency.

Current Status: 4/17/2018 - **SUBSTITUTE BILL ACCEPTED**, Senate Finance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-224>

SB266 **CAPITAL BUDGET** (OELSLAGER S) To make capital appropriations and changes to the law governing capital projects and to make reappropriations for the biennium ending June 30, 2020.

Current Status: 3/6/2018 - Senate Finance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-266>